103

TO AMEND THE PUBLIC BUILDINGS ACT OF 1959 CONCERNING CALCULATION OF PUBLIC BUILDING TRANSACTIONS

Y 4. P 96/11: 103-46

(103–46)

To Amend the Public Buildings Act o...

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC BUILDINGS AND GROUNDS

OF THE

COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 2680

TO AMEND THE PUBLIC BUILDINGS ACT OF 1959 CONCERNING CALCULATION OF PUBLIC BUILDING TRANSACTIONS

OCTOBER 28, 1993

Printed for the use of the
Committee on Public Works and Transportation

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103D CONGRESS
1ST SESSION

H. R. 2680

To amend the Public Buildings Act of 1959 concerning the calculation of public building transactions.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 1993

Mr. TRAFICANT (for himself, Mr. DUNCAN, Mr. MINETA, Mr. SHUSTER, Mr. BORSKI, Ms. NORTON, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Public Works and Transportation

---

A BILL

To amend the Public Buildings Act of 1959 concerning the calculation of public building transactions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PUBLIC BUILDING TRANSACTIONS.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is amended by adding at the end the following new subsection:

"(g) CALCULATION OF TRANSACTIONS.—For purposes of calculating public building transactions, any contract entered into by the Administrator under this Act for

1 the purchase, lease-purchase, or lease of a public building
2 approved pursuant to subsection (a) shall be treated in
3 the same manner as if the contract was entered into imme-
4 diately prior to fiscal year 1991.".

AMENDING THE PUBLIC BUILDINGS ACT OF 1959 CONCERNING CALCULATION OF PUBLIC BUILDING TRANSACTIONS

THURSDAY, OCTOBER 28, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:32 a.m. in room 2253, Rayburn House Office Building, Hon. James A. Traficant, Jr. [chairman of the subcommittee] presiding.

Mr. TRAFICANT. The subcommittee will come to order.

This morning the subcommittee will hear testimony from officials of the Executive Branch, the Administrative Office of the General Services Administration; Alice Rivlin, Deputy Director of the Office of Management and Budget; and Mr. Nye Stevens of the General Accounting Office. A panel of private sector real estate experts will also participate in today's proceedings.

We are all here today to receive testimony on H.R. 2680, an idea that is overdue, and for some reason Congress wants to pile on and continue to pile on long-term debt rather than face the realities of real scoring as far as the deficit is concerned.

H.R. 2680 is a bill to restore to the General Services Administration a full set of financing tools that the committee believes the agency needs to conduct an efficient and effective real estate transaction opportunity for our Government. As members of the committee which authorizes GSA real estate appropriations, we believe that GSA should present — and be able to include and discuss— lease-purchase options as the committee arbitrates on GSA project funding.

Lease-purchase combines characteristics of ownership with characteristics of leasing, and should be available to the committee for comparison and consideration with other funding alternatives. Our job is to authorize funding. In order to make the most informed decision, all funding options should be presented to the committee.

In its role as the Federal Government's central property manager, GSA has a very broad array of responsibilities and tasks. GSA has control over approximately 258 million square feet of space through ownership and leasing. Contrary to popular opinion, GSA's record as a central property manager is excellent, an excellent record, and we want to make their presence in the real estate field even more significant than it is. They are in the forefront of energy management; handicapped accessibility programs; design

awards; small business opportunity programs, and health and safety measures.

However, in the financial arena GSA is in left field. They are playing, at best, second nature. Scoring rules imposed by the Budget Enforcement Act of 1990 have severely limited GSA's ability to consider bargains: bargains for the taxpayer. That's what we're here about today. For the past three budget cycles this subcommittee has been presented with countless prospectuses which analyze in detail various alternatives to acquiring Federal office space. Too often, the committee has been informed that in the absence of direct Federal appropriation, a cost-effective lease arrangement, such as lease-purchase, is not available to GSA, and therefore, by extension, not available to the taxpayer.

There has been ample articulation of this problem. In December of 1989, GAO did a report entitled "Federal Office Space: Increased Ownership Would Result in Significant Savings." Nobody—nobody—responded. In fact, we have seen a lot of excuses. We've heard an awful lot of complaints, a lot of analytical garbage, but nobody has responded to that GAO report. On page 2, Results in Brief, "Funding limitations and biases in the current budget structure have led GSA to lease space that would be more economical to own." And on page 3, "Efforts to increase ownership are also hampered by a budgetary bias against capital investment. The Federal budget makes no distinction between the benefits associated with a capital asset, which produces a future stream of benefits, and an outlay for an annual rent payment, which does not."

Further, the Office of Management and Budget, in agency comments in the same report, states, "GSA and OMB plan to work with Congress to achieve legislation to authorize GSA to enter into least cost financing mechanisms."

I could almost fall asleep talking about that. I have never heard so many people say so many good things and do nothing in my life, and I'm getting phone calls that we should back off.

Further, the Office of Management and Budget in agency comments in the same report states, "We have to have least cost financing mechanisms." I should read that a third time.

In more recent GAO testimony, in July of 1993 before Senator Levin, Mr. J. William Gadsby testified, "Our work has shown that GSA could save billions of dollars by increasing the amount of federally-owned space and reducing leased space." I think Ronald McDonald wrote a letter to that effect to the Congress.

Administrator Johnson, in his testimony before Senator Glenn on June 8, 1993, said, "The current budget scoring rules need to be reevaluated. It seems to me that the scoring techniques, at best, make the budget difficult and confusing; and at worst, may not be in the best interest of the taxpayer because they often do not result in the most cost-effective decision."

Further, on October 14th, 1993, Mr. Johnson stated, "The Government should ensure that there is no budget bias against long-term investments. Poor choices of capital investments and the means of acquisition are currently costing taxpayers millions of dollars each year."

Finally, in June of 1983 the Congressional Budget Office, under the leadership of Alice Rivlin—and we're glad to have you with us today, Dr. Rivlin——

Ms. RIVLIN. Thank you, Mr. Chairman.

Mr. TRAFICANT [continuing]. Issued a report on the Federal Buildings Program. In the summary, Alice, there is a section entitled "Leasing Versus Construction." In part the section said, "In the longer term, however, for the Government to build and own its facilities often offers opportunities for significant economies." That was page 15.

I continue on to quote the report: "Measured over a project's useful life, leasing ordinarily requires larger total cash payments by GSA than would Federal construction ownership of the same space."

So it appears that all the relevant Government officials agreed that something should be done to increase GSA's effectiveness and efficiency in real estate acquisition. One of the reasons we're here today is that every time somebody comes with a solution, it's not the solution that they want, and nothing is done, nothing, zero.

I think we would all agree that the Government needs to continue to house its employees and has an established need for office space. We would also agree with the GSA position regarding no net increase in office space; however, we need to reach agreement on the most practical way to obtain needed space.

The subcommittee recognizes that direct Federal appropriation for building construction is very cost-effective. Also, in today's depressed real estate market, building purchase can be very attractive, and we do not have the means or mechanism to effect any of it. As you know, this subcommittee authorized $44 million in the fiscal year 1994 budget—largely due to the efforts of Mr. Duncan, Ms. Norton, and members of this subcommittee—for a Building Purchase Program. We would welcome the Administration including in its fiscal year 1995 budget submission money for GSA's Building Purchase Program, and that is one of the goals of this subcommittee.

After accepting the fact that direct construction and purchase are in most instances the most cost-effective acquisition, the subcommittee also needs to analyze various leasing arrangements: capital leases; operating leases; short-term leases, and long-term leases. H.R. 2680 is a bill which addresses public building calculation. It is a bill intended to provide the elected officials in Congress with the information necessary to compare, contrast, and make decisions, which we don't do now. How many times, as a subcommittee, have we seen prospectuses where the GSA tells us, "There are many better ways to do this; but because we cannot employ any of that methodology, we will have to nail the taxpayer"?

The bill has bipartisan support. We are looking for OMB to start looking at it today as reality, not pushing it aside for the long-term capital budgeting idea, which continues to be down the pike. We're going down the drain.

The reaction from the other body has been positive. Once they are through with their diary, maybe they can get into some business here. [Laughter.]

Mr. TRAFICANT. It's not a bill to create a capital budget. We do not oppose that, but we are sick and tired of the excuse of holding back on the basis of this capital budget business. It's not a bill to increase or enhance or change any authority which GSA did not have at one time or another. It is a bill intended to address a clearly-identified deficiency in GSA's current property acquisition program, a deficiency which is costing the taxpayers dearly.

We believe that GSA has done a great job. We want to put them in America as the player and as the hitter that they are in real estate and give them every tool that they can effectively function with on behalf of our taxpayers and our elected officials. And this subcommittee has for years been attempting to address this and has allowed people to give us songs and dances. Don't dance today, and don't sing. That is the goal of this subcommittee, and we plan to meet it.

Mr. TRAFICANT. With that, I will recognize the gentleman from Tennessee, who had much to do with the Building Purchase Program, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. I certainly support everything you've just said; in fact, you've said it all.

I will add that I look forward to today's hearing on H.R. 2680. I am pleased to be an original co-sponsor of this legislation, along with Chairman Traficant, Mr. Mineta, Mr. Shuster, Mr. Borski, Ms. Norton, and Mr. Lewis.

This is really the start of work on an effort to try to save money. This bill does not spend one penny. In fact, the goal of this legislation is to try to save money. It is to try to give GSA the flexibility to pursue the cheapest possible alternative in each particular situation.

We are here today because it has become evident that the 1990 scoring rules are inflationary and have not worked well. They do nothing toward developing cost-effective solutions to the problems this subcommittee is facing with regard to financing the Federal building program.

A GAO study in December of 1989 examined 43 GSA long-term building leases and found that these leases, over the next 30 years, will cost the taxpayers $12 billion—$12 billion—more than the cost of construction. That is $12 billion that really is wasted.

Despite this fact, the 1990 Budget Enforcement Act continued to push GSA in the direction of expensive leases by creating the scoring rules. That GAO report said:

> Efforts to increase ownership are also hampered by a budgetary bias against capital investment. GSA must record in one year's budget the total cost of a newly-constructed or -purchased building, but is required to record only one year's lease payments for a leased building. As a result, leasing appears to be less costly for the current year, despite its greater long-term costs.

In addition Mr. Roger Johnson, the Administrator of GSA, who could not be with us today due to a tragedy occurring with some major fires in California, says in his statement that is submitted for the record today:

> In the matter of real estate, the facts are that, for whatever reason, the Federal Government has nearly half of its space on operating leases that cost the taxpayers a significant premium over owned space. This ratio has increased significantly since the Budget Act of 1990. I am told by experts that the scoring rules, which were put

in place for good reason, anticipate their adverse effect on building acquisition, planning, and decisions.

All of these things are of concern to me, and that is why we are here to discuss this legislation and to discuss whether this is the best way to go or whether there are other alternatives. I wrote—and I think you wrote, Mr. Chairman, and Mr. Mineta and Mr. Shuster—we wrote several months ago, I think the first letter was sent in April of 1993, to OMB to request their advice or their consultation on this. For whatever reason, we didn't get a response. If we had gotten a response, then possibly we could have considered other alternatives. But at least Ms. Rivlin is here today, and I'm sure she had nothing whatsoever to do with the failure to respond earlier, but hopefully, Ms. Rivlin, you can offer some suggestions today. We look forward to working with you to try to develop the very best legislation possible if changes are needed.

I might add that a review of just a small sampling of Federal leases by GSA, which I received on May 12th of this year, identified nine Federal building projects where the taxpayer paid an extra $143 million by entering into long-term leases over other alternatives. That's the goal that I think most of us on this committee have. We don't always want to lock GSA into constructing or buying; we just want GSA to be able to consider every possible alternative. In some markets, it will be cheaper to lease; in some markets, it will be cheaper to build or to have lease-purchase agreements or various arrangements.

This extra $143 million that GSA uncovered in just nine cases is just the tip of the iceberg. The inflationary impact that the scoring rules and other factors are having on the Federal Building Program is of great concern to me and, I think, everyone on this subcommittee.

Since fiscal year 1989, GSA's leasing budget has increased by $1 billion. It has gone from $1.1 billion in fiscal year 1989 to $2.1 billion in fiscal year 1994. As great as this increase in cost is, of greater concern is that it is almost a doubling in just a very, very short time, in a period during which inflation has been very low. Are we going to continue to see these great increases in the future? This is something that we need to discuss.

In Atlanta, for instance, the scoring rules have forced GSA into considering a long-term office building lease which will cost taxpayers almost $700 million over 27 years. On August 12th, 1993, GSA stated that it can build and own a similar building for $303 million, a savings of almost $400 million. GSA's Atlanta Regional Office stated on July 21st, 1993, that the Atlanta Federal Center proposal was driven entirely by the OMB scoring rules.

I'm not trying to criticize OMB here; I think OMB probably has been forced into some things that maybe even some people at OMB don't entirely agree with. But both Senate and other House Members—several Members of the Senate had questioned this project on a bipartisan basis and have called on GSA to rethink the Atlanta Federal project and other similar situations.

It is little wonder that just a couple of months ago, an Associated Press nationwide poll reported that 95 percent of the American people believe that the Federal Government is wasting their tax

dollars. Frankly, I think almost every Member of Congress on both sides of the aisle shares this view, as well.

So all of us need to work together. I think we're all on the same side in this situation. I think we're all trying to find what is the best way to save money for the taxpayers, and that's the goal of this legislation.

I look forward to hearing the witnesses and their suggestions as to what is the best way to go about this.

Thank you, Mr. Chairman.

Mr. TRAFICANT. The gentlewoman from the District of Columbia?

Ms. NORTON. Thank you, Mr. Chairman.

I want to especially salute Chairman Traficant for his leadership on H.R. 2680, a bill which, as OMB and GSA should know, has very strong bipartisan support and will change the way public buildings transactions are calculated in the Federal budget.

By eliminating the application of up-front scoring rules for Federal real estate transactions, H.R. 2680 will provide GSA with the latitude to consider and propose to Congress the most cost-effective methods for financing Federal real estate transactions.

GSA's current scorekeeping rules have led to practices that are wasting billions of dollars in taxpayers' funds, at a time when the Administration is engaged in a deficit reduction that rations funds for virtually all other missions. These scoring practices, as required by the 1990 Budget Reconciliation Act, are contrary to GSA's own traditional approach and to general real estate practices in this country.

Federal scoring rules applicable to real estate transactions do not recognize the long-term value of a capital asset and the efficiency of payments over time. Having to construct or purchase a building with cash up front, rather than financing, is not economically efficient or intelligent. The unintended consequence of the budget scorekeeping rules has been the severe restriction on GSA's ability to purchase or construct buildings, and to acquire an equity interest in real estate by capital lease or lease-purchase.

As a result, GSA increasingly must lease space on a long-term basis, when ownership is the economically preferable alternative. The number of lease prospectuses brought to the committee this year for consideration and the estimated total cost over the length of the lease terms, a figure close to $1 billion, only underscores the need to make changes in Federal construction and lease practices.

Also notable in GSA's fiscal year 1994 capital improvement program was the absence of two construction projects for agencies in desperate need of new housing—facilities to house the Environmental Protection Agency and the Department of Transportation. H.R. 2680 will afford GSA more financial latitude to accommodate the needs of EPA and DOT in its capital improvement program, the only way that these agencies can quickly get the housing they need and the only way this committee intends to assure that they quickly get the housing they need.

The President has gotten magnificent cooperation from Congress for his deficit reduction efforts, and he deserves that cooperation. However, many of my colleagues, especially the members of the Congressional Black Caucus, who have been his most reliable votes here, had originally been attracted to his presidency because of his

vision of an Administration committed to long-overdue investments in the American people and in the infrastructure of the United States.

Despite understanding of the underlying problem, there is increasing disquiet here, that so little of that investment— especially in crime-ridden urban areas—has occurred, or seems to be on the drawing board. The more the Administration itself engages in policies within its power to remedy wasteful practices, the more help it will be able to count on from the Congress, especially the many colleagues who, like myself, have had little investment to bring home to constituents in desperate need.

The OMB and the GSA, as they approach the legislation before us, will do well to bear in mind that savings do not come only from cuts made by Congress, but also from efficiency from OMB, GSA, and other agencies.

I am especially pleased to welcome today's witnesses. I take special pleasure and pride in welcoming OMB Deputy Director Alice Rivlin, my constituent and, above all, a good friend who has made invaluable contributions to the District and the Congress and is doing the same in her important post in the Executive Branch.

Thank you, Mr. Chairman.

Mr. TRAFICANT. The Chair recognizes the distinguished chairman of the Water Resources Subcommittee, Chairman Applegate.

Mr. APPLEGATE. Thank you, Mr. Chairman.

I just want to chime in with all the kudos and plaudits that have been paid to you, Mr. Chairman, as well as your ranking member, Mr. Duncan.

This is a cockamamie idea that was conceived by Richard Darman and our friend, Leon Panetta, back prior to 1991, strictly for budget considerations. It just doesn't make good economic common sense, these kinds of financial arrangements.

I am glad to see Alice Rivlin here. I remember her from the Carter days, a very outstanding young lady and one who is well versed in economics. I would hope that the message would go back and that Leon would take a second look at this and reverse his position and ultimately come around in support of good common-sense economic practices. I know that he's a good economic and common-sense guy; he's one of ours.

I'm looking forward to hearing what you have to say.

Mr. TRAFICANT. Thank you.

Representative Clyburn?

Mr. CLYBURN. Thank you, Mr. Chairman.

I am pleased to be here and be a part of this hearing this morning. I wish to congratulate you and Mr. Duncan. I especially appreciate his remarks and those that others have made this morning. I am especially pleased to hear from Mr. Applegate. I was sitting here wondering about all these numbers I've been hearing, $12 billion in excess of what would have been spent if we had not leased. I was wondering, how could an idea like this ever come to fruition?

So, Mr. Applegate, thank you so much for telling me how we got there.

But I am pleased to be here, and I would hope that after we leave here this morning that Ms. Norton's comments about being able to redirect some of our resources to the infrastructure and to

these people will be made available by the action that we take here today.

Thank you.

Mr. TRAFICANT. Thank you, Mr. Clyburn.

I ask unanimous consent to insert into the record a letter dated May 19, 1993, to Mr. Panetta from myself, Chairman Mineta, and Eleanor Holmes Norton, relative to this issue. Without objection, so ordered.

[The referenced letter follows:]

NORMAN Y. MINETA, California
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The Honorable Leon E. Panetta
Director
Office of Management and Budget
17th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20503

Dear Leon:

As several of us mentioned to you in our meeting of April 30, 1993, there is a serious problem with the way decisions are being made on the housing of federal agencies. Options which are clearly more cost advantageous to the federal government are being rejected in favor of those which are less cost-advantageous, simply because of the way OMB has applied budget scoring rules to public buildings matters since 1990.

The concepts behind the scoring rules are not the problem, but the way these concepts are being misapplied to the federal government's real estate decisions is clearly a travesty. This is a problem not of your making, but it is now within your jurisdiction and you need to fix it before it imposes under your watch fresh costs on taxpayers .

We attach a more detailed description of the problem and a proposed approach to solving it. The proposed solution is limited to GSA real estate activities and is not intended to apply to the acquisition of other capital assets. We need to provide GSA the flexibility to fully consider and evaluate the most economically advantageous methods for meeting federal real estate requirements. We do not have that flexibility today.

If you have other suggestions as to how we could solve this problem, we would be pleased to work with you. If it would be helpful to have our staffs work together, please coordinate through Susan Brita at 225-9961. But inaction on this issue is simply too wasteful and is not an acceptable alternative.

The Honorable Leon E. Panetta
May 19, 1993
Page 2

We are grateful for your commitment to work with us on this extremely important issue and we look forward to an expeditious solution to this problem.

Sincerely yours,

JAMES A. TRAFICANT, JR.
Chair, Subcommittee on
Public Buildings and Grounds

NORMAN Y. MINETA
Chair, Committee on
Public Works and Transportation

Eleanor

ELEANOR HOLMES NORTON
Vice-Chair, Subcommittee on
Public Buildings and Grounds

NYM:JAT:SHH:EHN:ps
Attachment

cc: Alice Rivlin
Deputy Director
Office of Management and Budget

Mr. TRAFICANT. I think that every one of us has sight of the fact that Alice Rivlin has been with our Government through some good times and some rough times, that she has done a tremendous job; even though we have tremendous difficulty with the issue, we are looking for support. We don't want anyone to believe that we question you or your performance.

We know that you can only be with us for a short time this morning so, Alice, the floor is yours, and if you lie, I'm coming after you. [Laughter.]

TESTIMONY OF ALICE M. RIVLIN, DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Ms. RIVLIN. Thank you, Mr. Chairman.

If I may, I will summarize my testimony briefly and ask that you insert the full text in the record.

Mr. TRAFICANT. Without objection, so ordered.

Ms. RIVLIN. I am very happy to testify on H.R. 2680. The nicest thing about it is that it's very short. For one who has recently been dealing with the health bill, it's wonderful to find a short and simple bill.

The bill says, as you know, that with respect to the way purchase, lease-purchase, and lease of public buildings are calculated in the budget, we should go back to the old rules, the pre-fiscal year 1991 rules; that these transactions should be exempted from the scoring rules of the Budget Enforcement Act of 1990.

We believe that would be a mistake. Let me explain why we think so. It is not that we don't share the objective which you have so eloquently expressed and which all of your colleagues have also expressed. We are all on the same wavelength here. We would like to save the taxpayers' money. We would like to get the Government the best deal that it can possibly get when it is considering acquiring or leasing an asset.

Before the Budget Enforcement Act of 1990, leases and lease-purchases that were exempt from the Anti-Deficiency Act were scored year-by-year as the cash was laid out. That meant that the near-term cost of a lease-purchase was smaller than that of a purchase. If you were going to buy a building, you had to score all the money up front. If you were going to buy it over time, it looked as though it were cheaper because the near-term cost was cheaper. But that is, in fact, not true. A lease-purchase always costs the Government more than buying the building because a lease-purchase is a way to get somebody else to borrow money, that the Government can borrow more cheaply.

The way things were scored before 1990 meant that in a constrained budget situation, which we were already in then and still are now, there was a great temptation to do the more expensive thing: to engage in lease-purchases rather than purchases of buildings. So the 1990 Budget Enforcement Act corrected this distortion. Going back would simply cost the Government more.

A rule change of this sort is problematic in any case. It would take the agreement of the six committees to do it, as well as OMB; it would reopen the Budget Enforcement Act. We have just been through this marathon experience over the fiscal year 1993 budget. I don't think anybody really wants to reopen the Budget Act. The

Budget Committees who wrote this language, so far as we know, still support it. There would be an enormous image problem, as well as a real problem, of changing this rule. It would look as though the Government wanted to get around the rules and spend more money than the Budget Enforcement Act would allow.

And finally, and I think most importantly, the Budget Enforcement Act requires OMB to adjust the spending caps for changes in concepts and definitions. So if this rule change were made, we would have to adjust the spending caps in a downward direction, which would mean less spending for everything, including buildings.

As I said, we're all on the same wavelength. We need to have a Government process of decisionmaking that ensures that the Federal Government is investing wisely in long-term assets. The National Performance Review emphasized that. We are establishing such a process, and it is high time. We will be having the agencies produce five-year plans for their capital investment. OMB will review those, not only agency-by-agency, but across agencies to make sure that the Government is making the right decisions about capital assets and is doing the least-cost thing.

I think we are all on the same wavelength here, as I said. We have the same objective, to save the Government money and to get the best decisions possible.

We believe that the rule change in H.R. 2680 is not the way to go; in fact, we believe that it would move us in the wrong direction. But we are very eager to work with the subcommittee to figure out the best thing to do.

Just one more thing. Let me apologize on behalf of the Director for not answering these letters. We should have gotten back to you with at least an acknowledgement saying, "We got your letter and we can't answer it right now." We could not respond because they came in the middle of our consideration of this issue and in the middle of the National Performance Review. We apologize for not at least getting back to you and saying that much.

Thank you, Mr. Chairman.

Mr. TRAFICANT. Don't let that happen again. [Laughter.]

Ms. RIVLIN. We won't.

Mr. TRAFICANT. Second of all, there are a lot of questions from the panel. I was going to say we're not on the same wavelength, not at all. I've been here going on 10 years, and I've seen so many five-year plans that we're "five-yearing" out. It's like the old Soviet Union in every area.

I'm talking not about down the road. I'm talking about needing a solution now, and we are far off base. I don't know where the other Members of Congress are, but we are so far off base that it may call for a legislative confrontation on this issue.

I am not here today discussing the effectiveness of outright purchases. No one in here today is talking about lease-purchase and comparing it to outright purchase; everyone here understands that. Our problem is that we're talking today about lease-purchase versus all the leasing activity that GSA has engaged in and limited to, and is strangling us and wasting money, going down a sinkhole, a drain.

You said, Alice, that we are after "the best deal." Is long-term leasing the best deal for Uncle Sam?

Ms. RIVLIN. Sometimes it is and sometimes it isn't. I think we would certainly agree with lots of analysts who have said that it would probably save the Government money if it did less leasing and more purchasing. But lease-purchase is not a good idea. It's not preferable to purchase.

Mr. TRAFICANT. What is your concern about it? Why do you make that position? Is the Administration concerned that by opening up GSA to all of the tools available in the marketplace where they exist, that it will lead to a frenzy by Congress and an explosion of new buildings, new activities, new directions? Is that the concern?

Ms. RIVLIN. Our concern is this: when the Government is considering purchasing a building, it should do so in the least costly and most direct way, which is simply buying it. A lease-purchase is not an effective way to buy a building; it's more expensive for the Government, and that point should be made clear by scoring it like a purchase.

Mr. TRAFICANT. Alice, we agree with you on that. But that isn't the option. The option is just long-term leasing; that's all we have.

Now, all of these Administrations—and let's not talk Republican and Democrat—everybody is worried about what the numbers look like now, because there's another election coming. We're here today talking about the train. The problem is, we're going through elections and continuing to mount up long-term debt. And what we're placating today with the numbers game, we're just pounding on and heaping on debt on the American taxpayer, long-term.

I keep hearing how we're going to have long-term strategies. The only long-term strategy we have in the Congress is a reelection strategy.

My question is, given that the only option available to GSA is long-term leasing, are you telling me that lease- purchase is not a tool that should be made available to GSA in the marketplace? Is that your testimony?

Ms. RIVLIN. Lease-purchase is a tool available to the GSA. But when scored properly, it isn't a very effective tool. That's what we're saying.

The trouble, Mr. Chairman, is that there isn't enough money. We're in a very constrained budget situation. In a constrained budget situation there is a temptation to be penny-wise and pound-foolish and to do something that looks cheaper in the short run. We're all in that situation.

Mr. TRAFICANT. Well, that's the concern we have. We think that we're being dollar-foolish in the long run. We're sitting here looking at prospectuses that come back and say, "Because of no other option, it is the recommendation of GSA for a long-term lease; even though we do not feel it is the best way to go, that is what the recommendation is." And everybody sits back and they want to jump on GSA.

Our analysis shows us that GSA, within the constraints under which they are operating, are doing one good job. I think if the Administration has concerns that the Congress will, in a frenzy, start developing all kinds of new projects that maybe wouldn't happen

by the constraints of this long- term debt-type policy that we operate under, let us know. That can be addressed legislatively.

Ms. RIVLIN. Our concern is that we would go back to the pre–1990 situation in which the Government entered into lease-purchase agreements that were not the best thing to do in the individual instance. It may well be that in individual situations, a long-term lease is not a good thing to do; it would be better to buy the building. That is exactly what we would like the GSA and the OMB to focus on.

Mr. TRAFICANT. Would you agree that lease-purchasing is cheaper than long-term leasing? Would you agree to that?

Ms. RIVLIN. Sometimes, yes.

Mr. TRAFICANT. When would it not be?

Ms. RIVLIN. Oh, it entirely depends on the circumstances.

Mr. TRAFICANT. Cite the circumstances and show me how OMB might prioritize what is a lower priority project. I think you cited that on page 1 of your testimony. You mentioned the danger of "acquiring assets that are 'of lower priority in the long run.'"

Number one, tell me what time and in what circumstance lease-purchase is not cheaper than long-term leasing, and if you would, tie it into the statement of how you would explain OMB's prioritization of assets.

Ms. RIVLIN. Well, you have to look at many factors when you are considering whether to lease-purchase or lease an asset. One is how long the lease is. You may want flexibility to change, to get out of the lease, or to do something different. You have to look at the residual value of the building. It's awfully hard to sell Government buildings, but they do sometimes have value. You may want to end up owning it, or you may not.

Mr. TRAFICANT. Well, let's compare that, then, to what has evidently become a little bit of a concern, to say the least, about Atlanta.

Did OMB sign off on the long-term lease for Atlanta, or did it consider the fact that the cost-effectiveness of Atlanta under the constraints that GSA was faced with an indictment to the intelligence level of both the Congress and the American taxpayer? Did OMB sign off on the lease program, an outright long-term lease in Atlanta?

[No response.]

Mr. TRAFICANT. Somebody has to answer that. You could send it in by mail by this time. The Post Office has some trouble, but we'd get it. [Laughter.]

Did OMB sign off on the lease in Atlanta, Alice? Do you know?

Anyone else can sit at this table and help you. They can even testify and identify themselves.

Do you take the responsibility for sending it up to the Congress?

Ms. RIVLIN. What happened, Mr. Chairman, is that we did clear an 11(b) survey that recommended construction of a new Federal office building in Atlanta on a site to be acquired in the central business district. There was also the possibility of a long-term lease, but the recommendation was that we construct the building.

Mr. TRAFICANT. But it was cleared, and the Atlanta project was given a green light; and to the best of my knowledge—maybe we can answer this question—did OMB ever send a letter, or did any-

one ever call on the telephone, to tell anybody that OMB just could not support the long-term lease for Atlanta? Is that what you're telling me? Did you say to Congress, "You have to construct that because that long-term lease is a 'killer' and we're against it"? Did you ever do that? Did anybody ever do that?

Ms. RIVLIN. No, I don't think we did, Mr. Chairman.

Mr. TRAFICANT. Okay. Well, here's where we are. We are for the Federal presence in Atlanta. We want that space in Atlanta, but we do not want to give a shaft to the taxpayers by providing that space in Atlanta—and OMB has set back and let the Congress take the heat from all these traveling little news shows, and no more heat is going to come here. We're going to place that heat where it belongs. This subcommittee is opposed to that long-term lease that is killing us in Atlanta. We're not going to support it.

We want the tools now—now—for GSA to conduct business intelligently, with some common sense. And if the Administration's concern is that these Members are going to go out and just start building monuments to each other, tell us and we'll incorporate that in a legislative initiative, because we're screwed up here, Alice.

Ms. RIVLIN. Mr. Chairman, the sensible thing to do in Atlanta—if we need that building, if it has really high priority—is to find the money and build it or acquire it.

Mr. TRAFICANT. But OMB didn't say that, Alice. OMB gave a green light to this Congress for a long-term lease. I ask this question, and I want to leave the record open. I want OMB to communicate to me in writing whether or not they had given a green light to Atlanta's long-term lease or not.

[The following was received from Ms. Rivlin:]

OMB Position on the Proposed Atlanta Lease

Question: What positions did OMB take on GSA's proposal to lease up to 1.4 million square feet of space to be constructed by the Downtown Development Authority, in Atlanta, GA?

Answer: GSA's 11(b) Survey recommended "Federal construction of a new Federal office building on a site to be acquired in the CBD [Central Business District], or acquisition and reconstruction of an existing property..." The survey also indicated that, based on GSA's projections of future leasing costs, a consolidated lease was a viable alternative to continued leasing of existing facilities.

The Treasury, Postal Appropriations Act of 1993 included a provision that authorized GSA to enter into a 27-year lease for up to 1.4 million occupiable square feet of space with the Atlanta Downtown Development Authority. In both a Statement of Administration Policy (coordinated by OMB) and a letter from OMB Director Darman to the Treasury, Postal Appropriations Conferees, OMB communicated the Bush Administration's opposition to this provision. The Bush Administration opposed extending the leases to 27 years and the lack of competition that the language would direct. The Bush Administration was concerned that the provision would authorize a capital lease that would not be cost effective.

(Copies of the Statement and the letter are attached. The relevant paragraphs are on page 4 of the Attachment to the Statement of Administration Policy and on page 4 of the Enclosure with the Director's letter.)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

September 23, 1992

Honorable Robert Dole
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

The purpose of this letter is to express the Administration's views on H.R. 5488, the FY 1993 Treasury, Postal Service and General Government Appropriations Bill, as passed by the House and by the Senate. Your consideration of these views would be appreciated.

In his FY 1993 Budget, the President proposed to freeze domestic discretionary spending at FY 1992 levels, and to cut defense discretionary spending below the FY 1992 level. The President has stated that he will veto any bill that exceeds his request. On the basis of OMB's preliminary scoring, the House version of H.R. 5488 exceeds the President's request for discretionary budget authority by $118 million. The Senate version of the bill exceeds the President's request by $51 million. If the bill presented to the President were to exceed his request for discretionary budget authority of $11,400 million, the President would veto the bill.

The remainder of this letter discusses other Administration concerns with H.R. 5488. It also provides suggestions for changes that would lead to a bill the President could sign.

Items Subject to Veto Recommendations

The President's senior advisers would recommend that the bill be vetoed if it were to include a House provision related to the President's Council on Competitiveness and a Senate provision related to the Office of National Drug Control Policy (ONDCP).

IDENTICAL LETTERS SENT TO HONORABLE JOSEPH M. MCDADE, HONORABLE EDWARD R. ROYBAL, HONORABLE FRANK WOLF, HONORABLE ROBERT C. BYRD, HONORABLE MARK O. HATFIELD, HONORABLE JAMIE L. WHITTEN, HONORABLE DENNIS DECONCINI, AND HONORABLE PETE V. DOMENICI

The Administration supports the Senate's action to strike language that would prohibit the use of funds for the President's Council on Competitiveness or any successor organization. Such language could be read to restrict a core function of the Presidency, namely the President's authority to select advisers to assist in supervising the Executive Branch. It would also represent a highly objectionable encroachment on the ability of the President to discharge his constitutional responsibilities.

The Administration strongly opposes Senate provisions that would restrict political activity by the Director of ONDCP and certain other ONDCP staff. Singling out the President's top drug policy advisers would be unprecedented. No other officials of equivalent rank and responsibilities are subject to such restrictions.

Section 629 of the Senate version of the bill would expand the law enforcement authority of agents of the Office of Foreign Assets Control. This section would interfere impermissibly with the Attorney General's responsibility to manage the investigation and prosecution of violations of Federal law. If this section is not removed or modified acceptably, the Attorney General would recommend a veto of the bill.

Department of the Treasury

The Administration objects to language provisions of the Senate version of the bill that would severely constrain the Department of the Treasury's ability to manage its activities. Language directing field offices of the Criminal Investigations Division (CID) of the Internal Revenue Service (IRS) to report directly to the national CID office is especially objectionable. This mandate would inhibit the ability of the IRS, at the regional level, to develop balanced policies that adequately address the diverse responsibilities of the IRS.

The Senate has recommended a $100.5 million reduction to the request for Information Systems within IRS. This substantial reduction would prevent the IRS from replacing antiquated ADP equipment and would slow implementation of Tax System Modernization. As a consequence, IRS service to the taxpayers would be eroded, and productivity savings in IRS operations would be delayed.

Postal Service Revenue Foregone

Both the House and Senate allocate $200 million in FY 1993 for payments to the Postal Service Fund for revenue foregone, $270 million below the FY 1992 level. This proposed reduction in Federal payments for subsidized postage rates for selected groups is a good first step. However, the funding level provided would still be $78 million above the President's request.

Health and Retirement Benefits

Both the House and Senate have taken actions related to retirement and health benefits for Federal workers that are of concern to the Administration. Both versions of the bill restrict the negotiating authority of the Office of Personnel Management (OPM). These prohibitions would cause total Federal Employees Health Benefits (FEHB) Program costs to rise by $272 million in calendar year 1993 alone.

The Administration proposes to reduce FEHB payments to doctors and to move toward uniform drug co-payment terms for all enrollees. Preventing these actions would raise Federal agency costs by as much as $1.2 billion over a five-year period. It would also increase Federal payments to physicians and increase premiums for all FEHB enrollees. Increased budget authority and outlays of $75 million in FY 1993 and additional sums in FY 1994 are included in OMB's scoring of this limitation on OPM's administrative authority.

The Administration urges the Conferees to delete the restrictions on the negotiating authority of OPM.

The Administration objects to the Senate's $4 million reduction to the request for administrative expenses for civil service retirement and health and life insurance benefit programs. The reduction is of particular concern given the sudden surge in Postal retirements. Cutbacks would result in delayed settlement of claims, less timely processing of retirement checks and inquiries, and a reduced capacity to resolve disputes between enrollees and health insurers.

Public Building Projects

The House version of the bill would provide unrequested funding for additional public building construction and capital improvement projects of the General Services Administration. These additional projects were reviewed in competition for the limited funds available, and a determination was made that they were not warranted. Including these projects in the FY 1993 capital program would restrict the ability of the Public Buildings Fund to meet urgent construction and repair needs.

The Senate version of the bill also provides unrequested funding for public building construction and capital improvement projects. In addition, the Senate directs that $200 million previously appropriated for the Food and Drug Administration (FDA) be used for construction of facilities in Beltsville, Maryland; purchase of 565 acres of land in Maryland; and design of new facilities. The Administration strongly opposes this language as it is contrary to the plan the Administration proposed at the Senate Committee's request. The Administration's plan for FDA proposes the use of government-owned land and envisions using the $200 million for design and construction.

The Administration urges the Conferees to delete projects that are not priority needs at this time. Both the House and Senate versions of the bill would authorize unrequested projects at the expense of high-priority projects.

Scoring Issues

OMB has classified the ONDCP's research and development program of the Counter-Drug Technology Assessment Center ($20 million) as domestic spending. The Senate has assumed this program to be defense spending.

Additional Administration concerns with the House and Senate versions of the bill are contained in the enclosure. We look forward to working with the Committee to address our mutual concerns.

With best regards,

Richard Darman
Director

Enclosure

Enclosure
(Conference)

ADDITIONAL CONCERNS
H.R. 5488 -- TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1993

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding Levels

Office of National Drug Control Policy (ONDCP). The Administration strongly objects to the Senate's reductions in both funding and staff for the ONDCP. The Senate's actions would reduce total funding by over $1 million and would result in an overall FTE reduction of 26 percent.

Department of the Treasury

Financial Management Service (FMS). Both the House and Senate reduce the President's request for FMS by $5 million. This reduction would seriously hamper government-wide implementation of the Chief Financial Officers Act (CFOs Act). The reduction would also thwart efforts to correct long-standing deficiencies and to improve Federal cash, credit, and financial management government-wide. The Administration urges the Conferees to restore $3.7 million of the reduction.

Internal Revenue Service (IRS). The Administration opposes Senate action to reduce by $15 million the request for Returns Processing and Taxpayer Service. This reduction is taken in addition to the $11 million reduction included in the President's budget for productivity savings. Such a substantially reduced funding level would leave the IRS without sufficient funds to meet the needs of new taxpayers.

Inspector General. The Senate's reduction of $6.6 million to the request for the Inspector General (IG) account would cut funding drastically below the current services level. Such a reduction would eliminate audit work needed as a result of the CFOs Act. It would abolish funding for initiatives to institute better oversight and quality assurance in internal audit units of several law enforcement agencies, such as Customs; Secret Service; and Alcohol, Tobacco, and Firearms.

The reduction would eliminate funding for the Inspector General Auditor Training Institute. The one-time request for the Institute would provide funding for establishment of a government-wide training institute for IG auditors from all Federal agencies. In addition to basic auditor training, specialized training would be offered in financial management. Future costs of the Institute would be supported through tuition charges and reimbursement from the agency IGs. The Administration urges the Conferees to adopt the House funding level, which funds the Institute.

U.S. Customs Service. The Senate has ignored all but one of the initiatives proposed for the Customs Service. These initiatives represent the most urgent requirements given budgetary constraints. They include such priority items as: improvements to internal controls in such high-risk areas as collection and accounting systems for revenues on imports and efforts to address Southwest Border corruption and money laundering. Without such improvements to internal controls, billions in cash collection may be placed at risk.

While failing to fund these important initiatives, the Senate has chosen, instead, to fund inspector positions for Southwest Border ports currently under construction or expansion. The Administration recognizes that staffing requirements will develop for these ports in the future. Customs has considerable flexibility, however, to shift inspectors from areas of lower threat or declining workload. In addition, some of the locations cited will not be completed by FY 1993.

The Senate has divided the Customs air and marine operation and maintenance account into three components. The Administration objects to the creation of a new account strictly for the operation and maintenance of Customs P-3 surveillance aircraft. This funding arrangement would reduce Customs' flexibility to manage its programs effectively. Under certain circumstances, this could threaten conduct of missions should the level of P-3 activity suddenly change.

General Services Administration:

Real Property Operations. The Administration opposes the Senate reduction of over $100 million in GSA's real property operations program of the Federal Buildings Fund. A reduction of this magnitude cannot be achieved by reducing services to agencies that do not pay their full rent to GSA in FY 1993. GSA estimates that the maximum amount that could be saved by reducing services to agencies with rent caps is $12 million.

Office of Personnel Management:

Administrative Expenses. House and Senate reductions to the general funds could seriously compromise OPM's ability to implement government-wide pay reform, particularly locality pay. These reductions would also hamper OPM's efforts to assist the Department of Defense in down-sizing.

Office of the Inspector General. The Senate has reduced funding requested for the Office of the Inspector General within OPM by $1.2 million. This would make it very difficult to perform audits of agency financial statements mandated under the CFOs Act. The Administration urges the Conferees to adopt the House's funding level without any reduction to the efforts to implement the CFOs Act.

B. Language Provisions

Department of Treasury. The Administration objects to House and Senate language provisions that specify levels of staff and activity for programs in the Bureau of Alcohol, Tobacco, and Firearms; the IRS; and the U.S. Customs Service. This type of micromanagement severely hampers an agency's ability to manage its programs efficiently.

Internal Revenue Service. Both the House and Senate versions of the bill place a ceiling on resources for the Information Reporting Program under Tax Law Enforcement. Though it would have only a minor effect, this ceiling is unwarranted. This program is highly cost-effective and provides the major form of enforcement coverage for individual classes of taxpayers. Perceptions that it unfairly targets lower-income taxpayers are not supported by IRS statistics.

Contrary to perception, this program naturally focuses on higher-income individuals, who are more likely to have dividend and interest income. To increase high-asset audits, the Conferees are encouraged to fund fully the Administration's request for initiatives under Tax Law Enforcement.

General Services Administration (GSA). The Administration opposes Senate language proposing a lease with the Orlando (Florida) Aviation Authority. The proposal would direct GSA to enter into a lease transaction that waives the requirements of contracting law. Furthermore, it would direct GSA to enter into a lease with the Florida jurisdiction without a requirement to justify the need for, or the costs associated with the lease.

The Senate version of the bill would also direct the Public Buildings Service to enter into a 27-year lease on a building to be constructed by the Atlanta Downtown Development Corporation. The Administration opposes this expansion of leasing authority, which could potentially cause this project to be scored as a capital lease, and the lack of competition this language would direct.

FTS2000. The Administration objects to the Senate's deletion of section 622 regarding the mandatory use of the FTS2000 program. Section 622 would ensure that legislated mandatory use continues beyond March 1993 only if the program is cost-effective.

Office of Personnel Management. The Administration objects to Senate language requiring OPM to spend $1 million of its Salaries and expenses appropriation for the establishment of health promotion and disease prevention programs for Federal employees. This provision would impair OPM's ability to implement locality pay and a new pay-for-performance system, both of which are mandated by the Federal Employees Pay Comparability Act of 1990.

The Administration objects to House language requiring the use of $1 million to establish a toll-free telephone line. Because a smaller proportion of calls could be answered, a toll-free line would reduce service to annuitants who call.

Resolution Trust Corporation (RTC). The Administration opposes Senate report language that grants Federal agencies preferential treatment in sales of RTC properties. This action could complicate and delay the RTC's asset disposition process, thereby resulting in added costs.

Alien Species Prevention and Enforcement. The Administration opposes section 631 of the Senate version of the bill. This section would require the Secretary of Agriculture to screen all mail going to Hawaii to identify packages likely to contain plant pests or injurious animals. There is currently no evidence that such a program is needed. Further, it is not clear that the inspection system set up in this legislation would contribute to the stated goals.

Infringements on Executive Authority. The Administration objects to a number of provisions that purport to condition the President's authority, and the authority of affected Executive Branch officials, to use funds otherwise appropriated by this bill on the approval of various committees of the House of Representatives and the Senate. The Supreme Court has ruled such language unconstitutional in INS vs. Chadha.

Restrictions on the Office of Management and Budget. The Administration continues to be concerned about various restrictions on OMB's authority to study and review certain areas. Article II of the Constitution vests all "executive power" in the President, who shall "take Care that the Laws are faithfully executed." This authorizes the President to "supervise and guide" Executive Branch officials in "their construction of the statutes under which they act in order to secure...uniform execution of the laws." Myers vs. United States, 272 U.S. 52, 135 (1926).

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TREASURY, POSTAL SERVICE, AND GENERA, VERNMENT APPROPRIATIONS BILL, FY 1993
(in millions of dollars)

Major Programs	FY 1993 Budget		House Floor		Senate Floor		House difference from Request		Senate difference from Request	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
Domestic Discretionary:										
Executive Office of the President:										
Office of Management and Budget	58	57	52	52	55	55	-6	-5	-3	-1
Office of National Drug Control Policy	78	74	72	66	103	99	-6	-8	25	25
Other EXOP	86	83	78	78	104	91	-8	-7	18	8
Total, EXOP	222	214	202	196	262	246	-20	-18	40	32
Department of the Treasury:										
Bureau of Alcohol, Tobacco & Firearms	352	350	355	353	366	362	3	3	14	12
United States Customs Service	1,485	1,544	1,490	1,548	1,456	1,509	5	4	-27	-35
United States Secret Service	470	463	470	463	468	461	—	-0	-2	-2
Tax Law Enforcement (IRS)1	3,670	3,662	3,652	3,646	3,653	3,646	-17	-17	-17	-16
Information System (IRS)	1,581	1,381	1,567	1,397	1,480	1,345	-14	16	-101	-36
Other IRS	1,810	1,806	1,806	1,803	1,785	1,784	-4	-3	-25	-22
Other Treasury	692	700	663	677	708	710	-29	-22	16	11
Total, Treasury1	10,060	9,906	10,004	9,886	9,918	9,817	-66	-19	-142	-89
U.S. Postal Service, Foregone Revenue	122	122	200	200	200	200	78	78	78	78
General Services Administration:										
Federal Buildings Fund	336	1,166	402	1,117	354	926	66	-50	17	-240
Other GSA	196	203	189	196	188	195	-7	-7	-8	-8
Total, GSA	533	1,369	591	1,312	542	1,121	58	-57	9	-248
Office of Personnel Mgmt, Agency total	125	229	122	226	121	220	-3	-2	-4	-8
Limitations on FEHBP2	—	—	42	42	42	42	42	42	42	42
Other	339	448	325	437	305	419	-16	-11	-34	-28
Total, Domestic discretionary	11,400	12,287	11,485	12,301	11,390	12,065	85	14	-11	-222
Limitations on FEHBP:2										
Total, International discretionary	—	—	1	1	1	1	1	1	1	1
Total, Defense discretionary	—	—	32	[illegible]	60	57	32	32	60	57
Total, Discretionary	11,400 3	12,287 3	11,518	12,334	11,451	12,123	118	47	51	-165

Detail may not add to total due to rounding.

1 Does not include $103m in BA and $179m in OL in FY93 for the IRS Compliance Initiative.

2 Total FY93 costs of $75m are scored against the limitation on FEHBP. Five-year costs would total $600m. Additional costs would be incurred by Federal employees, annuitants, and agencies, including the Postal Service.

3 Reflects updated estimates.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 9, 1992
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 5488 -- TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1993

(Sponsors: Byrd (D), West Virginia; DeConcini (D), Arizona)

The purpose of this Statement of Administration Policy is to express the Administration's views on H.R. 5488, the FY 1993 Treasury, Postal Service and General Government Appropriations Bill, as reported by the Senate Appropriations Committee.

In his FY 1993 Budget, the President proposed to freeze domestic discretionary spending at FY 1992 levels, and to cut defense discretionary spending below the FY 1992 level. The President has stated that he will veto any bill that exceeds his request. On the basis of OMB's preliminary scoring, the version of H.R. 5488 reported by the Senate Appropriations Committee exceeds the President's request for discretionary budget authority by $355 million. If the bill presented to the President were to exceed his request for discretionary budget authority of $11,085 million, the President would veto the bill. Attached is a table that provides OMB's preliminary scoring of the bill.

The remainder of this statement discusses other Administration concerns with H.R. 5488 as reported by the Senate Appropriations Committee. The discussion addresses the Administration's priorities for program funding and provides suggestions that would lead to the development of a bill that the President could sign. The Administration urges the Senate to consider these views.

Council on Competitiveness

The Administration strongly supports the Committee action to strike language of the House bill that would prohibit the use of funds in the bill for the President's Council on Competitiveness or any successor organization. The Administration understands that an amendment may be offered that would restore the prohibition. Should such an amendment be adopted, the President's senior advisers would recommend that the President veto the bill.

The President has made regulatory reform a top Administration priority. The Council on Competitiveness has worked to ensure that the benefits of health, environmental, and safety regulations are delivered to the American public in the most efficient, effective manner.

The President's Regulatory Reform Initiative directed the Council to lead the effort in implementing reforms. These reforms are designed to stop government regulations that would slow the economy and to accelerate the implementation of regulations that promote economic growth. This effort is critical in a time of economic recovery. Reforms completed in the first 90 days of this effort will reduce private sector costs by an estimated $15 to $20 billion annually. The Council on Competitiveness is essential in helping to ensure that the Executive Branch carries out its regulatory activities with efficiency and in a manner designed to protect the public welfare.

If enacted, an amendment to eliminate funding for the Council would restrict a core function of the Presidency, namely the President's authority to select advisers to assist in supervising the Executive Branch. Such an amendment would represent a highly objectionable encroachment on the ability of the President and the Vice President to discharge their constitutional responsibilities.

Office of National Drug Control Policy (ONDCP)

The Administration would oppose any unwarranted expansion of restrictions on political activity by the Director of ONDCP and certain other ONDCP staff. The Administration understands that an amendment may be offered that would, contrary to the Hatch Act, prohibit the four ONDCP officials who are appointed by the President, with Senate confirmation, from participating in political activity. Currently, all other ONDCP staff are subject to the Hatch Act restrictions placed on virtually all Federal employees.

Singling out the President's top drug policy advisers would be unprecedented. No other officials of equivalent rank and responsibilities are subject to such restrictions. Should such an amendment be adopted, the President's senior advisers would recommend that the President veto the bill.

The Administration also strongly objects to the reductions in both funding and staff for the ONDCP. The Committee's actions would reduce total funding by over $1 million and Schedule C and non-career Senior Executive Service staff positions by 20 percent.

Department of the Treasury

The Administration objects to language provisions of the bill that would severely constrain the Department of the Treasury's ability to manage its activities. Language directing field offices of the Criminal Investigations Division (CID) of the Internal Revenue Service (IRS) to bypass regional offices and report directly to the national CID office is especially objectionable. This mandate would inhibit the ability of the IRS, at the regional level, to develop balanced policies that adequately address the diverse responsibilities of the IRS.

Section 629 of the bill would expand the law enforcement authority of agents of the Office of Foreign Assets Control. Unless this section is removed or modified acceptably, the Attorney General will recommend a veto of the bill because this section would interfere impermissibly with his responsibility to manage the investigation and prosecution of violations of Federal law.

The Committee has recommended a $100.5 million reduction from the request for Information Systems within IRS. This substantial reduction would prevent the IRS from replacing antiquated ADP equipment and would slow implementation of Tax System Modernization. As a consequence, IRS service to the taxpayers would be eroded, and productivity savings in IRS operations would be delayed.

The Administration opposes the Committee's $5 million reduction to the President's request for the Financial Management Service. This reduction would seriously hamper government-wide implementation of the Chief Financial Officers Act. The reduction would also thwart efforts to correct long-standing deficiencies and to improve Federal cash, credit, and financial management government-wide.

Postal Service Revenue Foregone

The Committee allocates $200 million in FY 1993 for payments to the Postal Service Fund for revenue foregone, $270 million below the FY 1992 level. This proposed reduction in Federal payments for subsidized postage rates for selected groups would still result in a funding level $78 million above the President's request. However, it is a good first step, particularly if combined with real program reforms. The Administration urges the Senate to approve the Postal Service reforms proposed in the President's FY 1993 Budget.

Health and Retirement Benefits

Several actions taken by the Committee related to retirement and health benefits for Federal workers are of concern to the Administration. The bill contains restrictions on the negotiating authority of the Office of Personnel Management (OPM). These restrictions would cause total Federal Employees Health Benefits (FEHB) Program premiums for Federal and postal employees and annuitants to rise by $272 million in calendar year 1993 alone.

The Administration proposes to reduce FEHB payments to doctors and to move toward uniform drug co-payment terms for all enrollees. Preventing these actions would raise Federal agency costs by as much as $1.2 billion over a five-year period, would increase Federal payments to physicians, and would increase premiums for all FEHB enrollees. Increased outlays of $75 million in FY 1993 and additional sums in FY 1994 are included in OMB's scoring of this limitation on OPM's administrative authority.

The Administration opposes the Committee's deletion of requested language that would require the Postal Service to make payments toward the full FEHB Program and Civil Service Retirement costs for certain Postal Service annuitants. This action increases outlays by $315 million in FY 1993.

For the preceding reasons, the Administration urges the Senate to delete the restrictions on the negotiating authority of OPM. In addition, the Administration urges adoption of language that would require the Postal Service to complete its payments toward the full costs of health and retirement benefits for certain Postal Service annuitants.

Public Building Projects

The bill directs that $200 million previously appropriated for the Food and Drug Administration (FDA) be used for construction of facilities in Beltsville, Maryland; purchase of 565 acres of land in Maryland; and design of new facilities. The Administration strongly opposes this language as it is contrary to the plan the Administration proposed at the Committee's request. The Administration's plan for FDA proposes the use of government-owned land and envisions using the $200 million for design and construction. The plan does not currently include the purchase of private land.

The bill would also provide unrequested funding for additional public-building construction and capital-improvement projects of the General Services Administration. The Administration urges the Senate to delete projects that are not priority needs at this time. The bill would authorize unrequested projects at the expense of high-priority projects.

Scoring Issues

OMB has preliminarily classified as domestic spending two programs that the Committee has assumed to be defense spending: the U.S. Customs Service's P-3 aircraft operation and maintenance program ($28 million); and the ONDCP's research and development program of the Counter-Drug Technology Assessment Center ($20 million).

Additional Administration concerns with the Committee bill are contained in the attachment.

Attachments

Attachment
(Senate Floor)

ADDITIONAL CONCERNS
H.R. 5488 -- TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1993

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding Levels

Department of the Treasury

Internal Revenue Service (IRS). The Administration believes that the Committee's reduction of $17 million in Tax Law Enforcement would undermine efforts to increase revenues through audits of high-asset taxpayers. The Administration also opposes the $15 million reduction to the request for Returns Processing and Taxpayer Service, which is taken in addition to the $11 million included in the President's budget for productivity savings. This substantially reduced funding level would leave the IRS without additional funds to meet the needs of new taxpayers.

Inspector General. The Committee's reduction of $1.3 million to the request for the Inspector General (IG) account would eliminate funding for the Inspector General Auditor Training Institute. This one-time request would provide funding for establishment of a government-wide training institute for IG auditors from all Federal agencies. In addition to basic auditor training, specialized training would be offered in financial management. Future costs of the Institute would be supported through tuition charges and reimbursement from agency IGs. The Senate is urged to restore funding for the Institute.

U.S. Customs Service. The Committee has ignored all but one of the initiatives proposed for the Customs Service. The Administration worked closely with Treasury and the Customs Service to develop these initiatives, which represent the most urgent requirements given budgetary constraints. They include such priority items as: improvements to internal controls, efforts to address Southwest Border corruption, and money laundering.

While failing to fund these important initiatives, the Committee has chosen, instead, to fund inspector positions for Southwest Border ports currently under construction or expansion. The Administration recognizes that staffing requirements will develop for these ports in the future. Customs has considerable flexibility, however, to shift inspectors from areas of lower threat or declining workload. In addition, some of the locations cited will not be completed by FY 1993.

With regard to Customs staff increases at Southwest Border ports, both Customs and the Immigration and Naturalization Service (INS) officials monitor the primary lanes at land-border ports. According to testimony by the General Accounting Office, an increase in Customs inspectors, without a commensurate increase in INS staff, would not necessarily facilitate border crossing.

The Committee has earmarked $1 million for Customs inspectors at the Honolulu airport and has imposed other staffing requirements at numerous other ports. This type of micromanagement would severely hamper Customs' ability to allocate its resources efficiently.

The Committee has divided the Customs air and marine operation and maintenance account into three components. The Administration objects to the creation of a new account strictly for the operation and maintenance of Customs P-3 surveillance aircraft. This funding arrangement would reduce Customs' flexibility to manage its programs effectively. Under certain circumstances, this could threaten conduct of missions should the level of P-3 activity suddenly change.

Administering the Public Debt. With the Committee's $6.6 million reduction, the Bureau of Public Debt would lack sufficient computer capacity to expand the use of automated systems to replace labor intensive, paper-driven processes. The reduction would bring the Bureau short of its goal of achieving compatibility with the Federal Reserve's mainframe computer. Necessary financial management system improvements would not be made. In addition, the Savings Bonds Division's Project FASTdata would be postponed as a result of this reduction.

Office of Personnel Management:

Administrative Expenses. The Administration objects to the Committee's $4 million reduction to the request for administrative expenses for civil service retirement and health and life insurance benefit programs. The reduction would cause cutbacks in services to active and retired Federal employees. Cutbacks would result in delayed settlement of claims, less timely processing of retirement checks and inquiries, and a reduced capacity to resolve disputes between enrollees and health insurers.

Office of the Inspector General. The Committee has reduced funding requested for the Office of the Inspector General within OPM by $1.2 million. This would make it impossible to perform audits of agency financial statements mandated under the Chief Financial Officers (CFOs) Act of 1990. The Administration opposes these reductions, which would obstruct implementation of the CFOs Act.

Merit Systems Protection Board (MSPB). The Committee's $486 thousand funding reduction would make it extremely difficult for the MSPB to carry out its responsibilities under the Whistleblower Protection Act and to hear employee appeals in a timely fashion.

B. Language Provisions

Department of Treasury. The Administration objects to language provisions that specify levels of staff and activity for programs in the Bureau of Alcohol, Tobacco, and Firearms; the IRS; and the U.S. Customs Service. This type of micromanagement severely hampers an agency's ability to manage its programs efficiently.

Internal Revenue Service. The Committee bill places a ceiling on resources for the Information Reporting Program under Tax Law Enforcement. Though it would have only a minor effect, this ceiling is unwarranted. This program is highly cost-effective and provides the major form of enforcement coverage for individual classes of taxpayers. Perceptions that it unfairly targets lower-income taxpayers are not supported by IRS statistics.

Contrary to perception, this program naturally focuses on higher-income individuals, who are more likely to have dividend and interest income. To increase high-asset audits, the Committee is encouraged to fund fully the Administration's request for initiatives under Tax Law Enforcement.

General Services Administration (GSA). The Committee bill would direct the Public Buildings Service to enter into a 27-year lease on a building to be constructed by the Atlanta Downtown Development Corporation. The Administration opposes this expansion of leasing authority, which could potentially cause this project to be scored as a capital lease, and the lack of competition this language would direct.

FTS2000. The Administration objects to the Committee's deletion of section 622 regarding the mandatory use of the FTS2000 program. Section 622 would ensure that legislated mandatory use continues beyond March 1993 only if the program is cost-effective.

Office of Personnel Management. The Administration objects to language requiring OPM to spend $1 million of its Salaries and expenses appropriation for the establishment of health promotion and disease prevention programs for Federal employees. This provision would impair OPM's ability to implement locality pay and a new pay-for-performance system, both of which are mandated by the Federal Employees Pay Comparability Act of 1990.

Resolution Trust Corporation (RTC). The Administration opposes report language that grants Federal agencies preferential treatment in sales of RTC properties. This action could complicate and delay the RTC's asset disposition process, thereby resulting in added costs.

Section 521 prohibits the use of funds to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer. The Administration objects to this provision because it restricts the flexibility of the Executive Branch to manage senior executive personnel effectively and efficiently.

Infringements on Executive Authority. The Administration objects to a number of provisions that purport to condition the President's authority, and the authority of affected Executive Branch officials, to use funds otherwise appropriated by this bill on the approval of various committees of the House of Representatives and the Senate. Such sections are 526, 614, and 621 of the General Provisions. The Supreme Court has ruled such language unconstitutional in INS vs. Chadha.

Restrictions on the Office of Management and Budget. The Administration continues to be concerned about various restrictions on OMB's authority to study and review certain areas. Article II of the Constitution vests all "executive power" in the President, who shall "take Care that the Laws are faithfully executed." This authorizes the President to "supervise and guide" Executive Branch officials in "their construction of the statutes under which they act in order to secure...uniform execution of the laws." Myers vs. United States, 272 U.S. 52, 135 (1926).

In the regulatory process, the President has chosen to exercise supervisory control through delegation of this constitutional power to OMB pursuant to Executive Orders 12291 and 12498. The restrictive provisions of the Committee bill would interfere with that authority.

PRELIMINARY C :ORING

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMEN: APPROPRIATIONS BILL, FY 1993
(in millions of dollars)

'92
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Major Programs	FY 1993 Budget BA	FY 1993 Budget OL	House Floor BA	House Floor OL	Senate Committee BA	Senate Committee OL	House difference from Request BA	House difference from Request OL	Senate difference from Request BA	Senate difference from Request OL
Domestic Discretionary Spending:										
Executive Office of the President:										
Office of Management and Budget	58	57	52	52	57	56	-6	-5	*	*
Office of National Drug Control Policy	78	74	72	68	123	109	-6	-6	45	35
Other EXOP	86	83	78	76	85	83	-8	-7	-1	-1
Total, EXOP	222	214	202	196	266	248	-20	-18	44	34
Department of the Treasury:										
Bureau of Alcohol, Tobacco & Firearms	352	350	355	353	366	363	3	3	14	13
United States Customs Service	1,485	1,544	1,490	1,548	1,486	1,533	5	4	1	-11
United States Secret Service	470	463	470	463	468	461	---	-0	-2	-2
Tax Law Enforcement (IRS)[1]	3,670	3,662	3,652	3,646	3,653	3,646	-17	-17	-17	-16
Information System (IRS)	1,581	1,381	1,567	1,397	1,480	1,345	-14	16	-101	-36
Other IRS	1,810	1,806	1,806	1,803	1,792	1,790	-4	-3	-18	-16
Other Treasury	692	700	663	677	688	690	-29	-22	-4	-9
Total, Treasury[1]	10,060	9,906	10,004	9,888	9,933	9,828	-56	-19	-127	-78
U.S. Postal Service, Foregone Revenue	122	122	200	200	200	200	78	78	78	78
General Services Administration:										
Federal Buildings Fund	336	1,166	402	1,117	320	910	66	-50	-16	-256
Other GSA	196	203	189	198	189	195	-7	-7	-7	-7
Total, GSA	533	1,369	591	1,312	509	1,106	58	-57	-23	-263
Office of Personnel Mgmt, Agency total[2]	20	124	122	226	124	228	102	103	104	105
Limitations on FEHB[3]	---	---	42	42	42	42	42	42	42	42
Payments from U.S. Postal Service[4]	---	---	210	210	210	210	210	210	210	210
Other	129	238	115	227	123	233	-15	-11	-6	-5
Total, Domestic discretionary	11,085	11,972	11,485	12,301	11,407	12,095	400	329	322	122
Limitations on FEHB:[3]										
Total, International discretionary	---	---	1	1	1	1	1	1	1	1
Total, Defense discretionary	---	---	32	32	32	32	32	32	32	32
Total, Discretionary	11,085	11,872	11,518	12,334	11,440	12,128	433	362	355	155

* Less than $500 thousand.

1 Does not include $183m in BA and $179m in OL in FY93 for the IRS Compliance Initiative.

2 FY93 request includes payment of $105M from U.S. Postal Service.

3 Total FY93 costs of $75m are scored against the limitation on FEHB. Five-year costs would total $600m. Additional costs would be encountered by Federal employees, annuitants, and agencies, including the Postal Service.

4 FY 93 request includes $210m in undistributed offsetting receipts from U.S. Postal Service.

. TREASURY, POSTAL SERVICE, AND GENERAL GOVEI NT APPROPRIATIONS BILL, FY 1993 (continued)
(In millions ars)

Comparison of 602(b) Allocations:	House 602(b) BA	House 602(b) OL	Senate 602(b) BA	Senate 602(b) OL	House Floor Less House 602(b) BA	House Floor Less House 602(b) OL	Senate Committee Less Senate 602(b) BA	Senate Committee Less Senate 602(b) OL
Domestic	11,170	11,958	11,320	11,998	315	343	87	97
Defense	---	---	48	31	32	32	-16	1
International	---	---	---	---	1	1	1	1

Mr. TRAFICANT. I want that in writing to this Congress.

Ms. RIVLIN. OK.

Mr. TRAFICANT. Nothing personal here. I think you've done a tremendous job, but for some reason, OMB and the Congress are not working together, and it's evident in the way we're doing business, like a bunch of fools.

Ms. RIVLIN. Mr. Chairman, there is $14 billion in unused BA in the 1994 budget. If we wanted to buy this building, it would be possible to do that.

Mr. TRAFICANT. Why didn't you communicate that to the Congress? Why did you approve a long-term lease?

This is where we are. We want a Building Purchase Program for GSA. We want a lease-purchase opportunity, at least with the covenants that would protect it and make it cost-effective. We want GSA to have every tool that every other real estate operative has in our marketplace.

Ms. RIVLIN. The lease-purchase is not the sensible way to acquire this building in Atlanta. It's more expensive.

Mr. TRAFICANT. It's more expensive than an outright long-term lease, Alice?

Ms. RIVLIN. It's more expensive than buying it or building it.

Mr. TRAFICANT. Is it more expensive than a long-term lease, Alice?

Ms. RIVLIN. No, it isn't.

Mr. TRAFICANT. Okay.

Ms. RIVLIN. But that's not the question.

Mr. TRAFICANT. The question is, that's where we are. That's where we are with a long-term lease.

I would yield to the gentleman from Tennessee.

Mr. DUNCAN. Ms. Rivlin, I'll try to be brief because I know you have to leave.

Following up on the Chairman's questions, as you know from my earlier statement, I have some concerns also about the project in Atlanta. For instance, just quoting from the 11(b) study, the 11(b) report that was done on the Atlanta project, it says there "Direct Federal construction of a building is the most economical method of providing space for agencies currently housed in leased space in the downtown area." It goes on to say, "The structure of the Atlanta Federal Center proposal was driven entirely by the OMB scoring rules."

That's not me saying that; that's the 11(b) report.

In addition to that, in a letter sent to us on May 28th, 1993 from the GSA Administrator—actually, from the Acting Administrator at that time, Dennis Fisher—it said, "GSA's first preference, however, is an alternative that would result in Federal ownership." Going on, "Therefore, if scoring rules change, or if an appropriation is made available for construction before the lease is executed, GSA would use that authority to provide for Federal ownership."

But the point of this hearing is that the preferred alternatives are being prohibited by the scoring rules.

Ms. RIVLIN. No, the preferred alternative is an appropriation to construct or buy a building, and that's not prohibited by any scoring rules.

Mr. DUNCAN. Is that what you support?

Ms. RIVLIN. Pardon?

Mr. DUNCAN. Is that what you support? Is that your preferred alternative? Is that what you would recommend, a direct appropriation to purchase the building?

Ms. RIVLIN. Yes, if it stands up to a priority ranking against other uses of that money then that's the way to do it.

Mr. DUNCAN. Well, let me ask you this. You know, I referred to this GAO report earlier. The title of this report is, "Increased Ownership Would Result in Significant Savings." That report says, "Leasing appears to be less costly for the current year, despite its greater long-term costs."

Now, you said a few minutes ago that the scoring rules of 1990 "corrected this distortion," but it seems to me—do you not think that it maybe corrected one distortion but created another?

Ms. RIVLIN. No, I don't think the scoring rules have created this problem. What creates this problem is the tightness of the budget and the reluctance of everybody, in the face of a very tight budget, to do what is the most cost-effective long-run thing, even if it costs more in the short run.

That's where we are. I mean, it is really similar to the problem of the young couple starting out with a constrained budget; they think, "Can I afford to buy a house, or must I rent?" And for a while, they must rent because they haven't accumulated or saved enough. Other priorities come before their desire to accumulate the necessary capital to buy a house.

That's the problem. You do things that are not in your long-run interest when you have very constrained funding. That's what we appear to be doing. It's not always sensible.

Mr. DUNCAN. So what you are saying is that you do agree with the statement here, that increased ownership would result in significant savings? You say that your preferred alternative in many of these situations would be to purchase a building or construct a building, but that you do recognize that that is prohibited by the scoring rules that we have in effect, but that to a certain extent those scoring rules are brought about because of the tightness of the budget?

Ms. RIVLIN. It's not prohibited by the scoring rules. It's not prohibited by anything. It's just that we tend, in the face of a very short-run tightness and in the face of a very tight budget, to say, "What can I do that will cost less in the short run, even if it costs more in the long run?" That's what we are doing.

We don't think the Government should be doing that. We think the Government should be looking at all of its priority investments and considering the best way to solve this problem. That's what we propose to do. We propose to set up a more formal and more regular process to weigh the alternatives so that the Government makes the best decision over a period of time.

But changing this scoring rule won't help that situation.

Mr. DUNCAN. Then you disagree with reports that say, for instance, that the Atlanta project "was driven entirely by the OMB scoring rules"?

Ms. RIVLIN. That's right. I think that money could be appropriated to acquire or construct a building in Atlanta——

Mr. DUNCAN. How would you rate the effectiveness of the scoring rules? Have they reduced the deficits, do you think?

Ms. RIVLIN. This is a very limited piece of the budget, but to the extent that they have pushed the Government in the direction of acquiring buildings rather than doing lease-purchase, they have saved money.

Mr. DUNCAN. And yet you would not dispute the figures in these reports, that leasing costs have gone up in this last four or five years, have almost doubled from $1.1 billion to $2.1 billion?

Ms. RIVLIN. We have done more leasing, yes.

Mr. DUNCAN. Even in times of very low inflation and all sorts of efforts to hold back Government spending, or at least to hold down the increases?

Ms. RIVLIN. Leasing isn't always the wrong thing to do.

Mr. DUNCAN. Well, I understand that, and I think that's the point of all this. We're trying to see if there's a way to get some flexibility here so that the cheapest possible alternative can be pursued in every situation.

Ms. RIVLIN. Right.

Mr. DUNCAN. But what I'm wondering about, do you think that we're going to see another doubling of these lease costs in the next four years, even if we have very low inflation? Do you think we're going to continue to see these costs escalate at just unbelievable rates?

Ms. RIVLIN. No, I don't think so. I think over the next few years we're going to see the Federal Government downsizing. We are pledged to reducing the Federal workforce by 252,000 people over the next five years. That means the Government is going to use less space, not more, because we are going to have fewer employees.

So I don't expect that we're going to see rising costs. I hope they can come down. I also hope that looking at the whole asset acquisition picture in a sensible way will result in better decisions, by pushing us to sometimes decide to acquire an existing building or construct a new building rather than leasing one.

Mr. DUNCAN. You say you are pledged to decrease Federal employment by 252,000. Do you think that's—how certain are you that that figure is going to be achieved?

Ms. RIVLIN. Oh, I'm not certain, but we're very serious about the goal. We think it is achievable.

Mr. DUNCAN. Well, on a scale from 1 to 100, what do you think the odds are that we will reduce it by 252,000, then?

Ms. RIVLIN. I'm not a betting woman, Congressman.

Mr. DUNCAN. Even 50–50?

Ms. RIVLIN. I think that we really will bring the Federal workforce down, and that there is very considerable potential for this over the next few years. That will affect the need for space.

I think there are two things going on. One is that we are downsizing the Federal Government. The other is that we are more and more conscious of the need for flexibility, because the nature of work is changing. Those things will affect the own/lease decision.

Mr. DUNCAN. But it seems that the practical effect of the scoring rules as they are now has limited the flexibility.

Ms. RIVLIN. No, I don't agree with that.

Mr. DUNCAN. All right. Thank you very much.

Mr. TRAFICANT. The gentlewoman from the District?

Ms. NORTON. Thank you, Mr. Chairman.

Ms. Rivlin, I suppose I should begin by saying that I regret that we have to have this hearing at all. It had been my impression that both you and the Director were sympathetic to these concerns about the effect of long-term leasing, with nothing for the Government in the end.

I can tell you this, this is no longer an inside baseball notion. Constituents all around the country have focused on this problem because it has been brought to their attention by the media. You don't have to be very sophisticated to understand that if you put out a lot of money for a lease over a long period of time, you're not getting anything for it.

So we are hearing from people as well, and there is concern that Congress isn't doing anything about it, as the media have highlighted it all over the country. This has become a national scandal, if you will forgive me.

I regret as well that, in essence, you have tried to change the subject through discussion of ownership versus lease-purchase. That is like telling the poorest of my constituents, across the river, that "The cheapest thing you all can do over there is to purchase your own home." Well, they can't purchase their own homes, so the next thing they must consider is, what is the next best option available for me?

We are interested in lease-purchasing not because any of us have a dime in that dollar, but because it would appear that under almost all circumstances, the next best option has been unavailable for GSA, and GSA seems not to have the full roster of tools that other governments have and that anybody in the business has.

Since you have focused so centrally on what you believe the Government ought to really be doing, which is purchasing buildings, I have to ask, how much money you included in your own budget request for the purchase of buildings, the budget request submitted by this Administration, if that is your preferred option?

Ms. RIVLIN. I don't know the exact answer to that.

Mr. TRAFICANT. We could leave the record open for any——

Ms. NORTON. I want the record to—If they don't know whether they have asked this committee to purchase any Federal buildings, then I don't know what they do know. I don't regard that as a detail, and I want to know the answer.

Ms. RIVLIN. The answer is that we put $750 million in the budget for construction.

Ms. NORTON. There is a lot of obfuscation going on here. You chose your words wisely, "construction" funds. I'm talking about purchase of buildings. You know, this is not the game I expect to be playing with an Administration in my own party.

Ms. RIVLIN. I'm not playing a game.

Ms. NORTON. You didn't say construction in your testimony, you said purchase. I therefore followed the language you used, and I want an answer to the question. How much money did you ask for, for purchase?

Ms. RIVLIN. We didn't put any money in the budget for acquisition of buildings. We did have money in there for construction.

Ms. NORTON. I don't want an adversarial relationship with you, and acertainly not with your aides who have been pressing the other way for years. What I want to do is make it so that when there is a problem that the Congress sees in a bipartisan fashion, that we communicate, without a hearing, in a friendly manner, to the Administration, we don't end up with a hearing as if we were dealing with a bunch of adversaries, and we don't get answers that parse the language in a way that further sets up a confrontational relationship; because if that's what you want, you really have a bunch of folks who know how to play that game, too. That's not the way I want to play it, especially with my friends and especially with a Democratic Administration.

Ms. RIVLIN. Ms. Norton, I am available to discuss this at any time. I don't have instant wisdom. I deal with a lot of different subjects and I don't have all the numbers in my head. I have to turn to my——

Ms. NORTON. I didn't ask about numbers. I asked about something that is not even a detail. Let me go forward.

Let me make clear——

Ms. RIVLIN. It's a detail I didn't know. I'm sorry.

Ms. NORTON. Yes, but the answer that your aide gave you was not an answer to my question. The answer that your aide gave you was one that had to do with construction and not purchase, when I had asked about purchase. I don't consider that a credible or friendly answer or a way to get on the same page.

Ms. RIVLIN. I'm sorry, but I think we have the information in front of us now.

Ms. NORTON. Now, let's move forward. You say, as any homeowner in the United States would agree, that purchase is always superior to lease-purchase. We know now that you have funds only for construction and not for purchase, or you asked for construction and not for purchase.

Now I am going to ask you if OMB has any plans in the next budget submission to ask for funds for purchase—that is, for Federal ownership and not for construction?

Ms. RIVLIN. We don't know yet. We are in the process of reviewing the 1995 budget. The budget submissions from the agencies were due on the 1st of October. They didn't all make it, but we have them now and we are very actively reviewing them. The Director will hold a Director's Review in November and we will have a submission in February.

Ms. NORTON. But I take it from your testimony that since you believe that purchase is best, you would try to move the Government toward purchase, to the greatest extent feasible?

Ms. RIVLIN. We would certainly look at it. We are not enthusiastic about uneconomic long-term leases. That's not where we are.

Ms. NORTON. That is a baby step that I appreciate.

So we at least agree that long-term—and I stress long-term—leases, with no option at the end for ownership by the Government, is not the best deal for the Government. We would all like to move away from that in some form or fashion. Can we at least agree on that?

Ms. RIVLIN. In general, that's right. I think you have to look at each of these things on its merit. I said uneconomic——

Ms. NORTON. On its merits? On its merits might well include looking at lease-purchase and ownership at the end, might it not?

Ms. RIVLIN. Yes. The point is to look at all the options and choose the one that's in the best long-run interest of the Government, not the one that saves money in the short run.

Ms. NORTON. And not the one that looks good on the books but may be costing taxpayers billions of dollars that they don't see until CBS and 60 Minutes tells them so.

Does OMB capitalize any of GSA's long-term leases?

Ms. RIVLIN. No. We don't do a capital budget.

Ms. NORTON. That's the reason OMB doesn't capitalize any of its long-term leases? You just put them out there? You are aware that these leases have become more and more frequent?

Dr. Rivlin, I should tell you that in many ways, my concern here could be considered a pursuit against interest. I live in a city which lives off of development, especially the lease of buildings to the Government. I have to be absolutely frank with you. But in considering my responsibilities when I got on this committee, while I said I would fight for my city, I will never put myself in a position where I am fighting for my city at the expense of the budget of the United States of America.

I have to say that I think that long lease after long lease in the District of Columbia is at the expense of the taxpayers of the United States of America.

Ms. RIVLIN. Well, I appreciate that, and that is exactly the kind of question that needs to be looked at in an orderly way. We agree with that. We may be spending too much money on long-term leases. Reviewing these decisions in a more orderly way is something that we are very much in favor of. We just don't think that changing the scoring rule is the way to go.

Ms. NORTON. What is a catalog of the available ways that are to fund necessary assets within current scoring rules and spending caps? What is available, is what I want to know.

Ms. RIVLIN. What is available? Purchase; construction; lease; lease-purchase, maybe some other things.

Ms. NORTON. Has the OMB looked at the needs of two agencies that have long had requests for housing, the EPA and the DOT?

Ms. RIVLIN. Indeed we have.

Ms. NORTON. Have you considered either lease-purchase or purchase of facilities for these agencies long without decent housing?

Ms. RIVLIN. Well, the EPA one, as you know, is very much on the front burner at the moment. The possibilities are several. There has been no decision made about an EPA Headquarters because, as you know, it is one of the possible tenants for the Federal Triangle Building.

Ms. NORTON. It is not one of the possible tenants for the Federal Triangle Building.

Ms. RIVLIN. Well, I knew I would be in trouble if I said that. [Laughter.]

Ms. NORTON. You can say that all you want to, but you're going to have to come past me, past the Senate, and you all can just stay over there all you want to, talking about this "possibility." It's not a possibility. It's not going to happen. You have instructions in the EPA budget, absolute instructions, to do lease-purchase. You're

holding up. You have a plan before you that says you save no money by putting EPA in there, at least no more than you would save by putting other agencies that are in leased space, and it is not going to happen. I don't care if you bring the Vice President and the President themselves into it. It's not going to happen. This is a Government that has three Branches, and this Branch, the Congress of the United States, including both a House and a Senate, has spoken, and each time you all come here in defiance of how the Congress has spoken, you create real tension and problems—not only with me, but with the chairman of this committee, with other subcommittee members, with the chairman of the committee itself, and with our counterparts in the Senate of the United States, and it's not going to happen. I want the record to show it once again.

Ms. RIVLIN. I'm not in defiance of anything——

Ms. NORTON. The language in the bill makes it clear that only agencies that are international in character can go in the building, and we are not going to repeal that language. You don't have the option to put anybody you damn please in there, and it's not going to happen.

I am so tired of hearing members of the Administration act as though they had an obligation, and they have the prerogative, to take action against what the Senate and the House have said, and it's not going to happen.

Ms. RIVLIN. My understanding of where it stands at the moment is that the Administrator of GSA, who has been widely praised this morning, is working on alternative plans. One such plan would be an international environmental center, which I believe would comply with everybody's desires. But be that as it may, as for a lease-purchase for a new headquarters for EPA, this is a good illustration of the problem. It would be more cost-effective for the Government to purchase or construct a new building for EPA than to lease-purchase it. Furthermore, it's not a scoring problem because no new budget authority would be required to do it. The authority preceded the BEA of 1990.

Ms. NORTON. Then why haven't you done something about this agency that has been on its knees, asking for space? Since it's not a scoring problem, then why didn't you include a request in your budget?

Ms. RIVLIN. Because it hadn't been decided how to handle it. There are various options.

Ms. NORTON. Well, let me tell you what kind of scoring problem it is.

EPA is at Waterside Mall because John Sununu said that GSA's budget of $300 million for the EPA building would look bad as a line item in Bush's budget. I want you to know that there was a line item in the budget for the EPA, and it was taken out for cosmetic reasons in order to make the budget look good and to make the taxpayers look bad.

Moreover, the delay on this has been truly insulting since the language in the bills directing you to do a lease-purchase for EPA has, if anything, strengthened since this Administration came to office, since we have new language in the EPA appropriation conference report.

Then I heard there was a meeting involving the Vice President of the United States—just let me put this on the record. I called him up and I told him that we're not going to do it, because this is an equal Branch of Government, and I don't care who gets pulled into it. Unless you find a way to get us to repeal the language that is on the books, EPA isn't going into this building, and any cosmetic renaming of EPA departments just won't do it and will further insult our intelligence. And frankly, you see me angry and you see me not hiding it because I am damn angry about the way this issue has been treated. I am not going to back off and I am going to make sure that nobody over here backs off, and I'm going to make sure that nobody in the Senate backs off. So we'd just as well settle it.

Now, I'd like to know also how much money has the application of the scoring rule since 1990 saved the United States Government.

Ms. RIVLIN. There wouldn't be any way to calculate that because we don't know what would have happened under other scoring rules.

Ms. NORTON. There is a way to do a model that would certainly make you understand whether or not it had a saving. That is not an impossible question to ask the OMB. I would like to know, and I would like you to tell us. I would like you to submit for the record some indication, looking at past practice with lease-purchase and other forms, and projecting what might have happened. This committee would like to have you submit for the record, within 30 days, how much money has been saved. At the very least, we're entitled to know whether the scoring rules have any effect.

Ms. RIVLIN. I think we can make an estimate of that. It wouldn't be a very good estimate, but——

Ms. NORTON. That's all I wanted, some sense of whether this has done any good.

[The following was received from Ms. Rivlin:]

SAVINGS FROM IMPLEMENTATION OF SCORING RULES

Question: How much has been saved from implementing the budget scoring rules related to leases, lease purchases and purchases?

Answer: As indicated in the hearing, OMB does not have estimates of the total savings governmentwide that have been achieved since the BEA scoring rules were implemented.

The scoring rules place purchases, lease/purchases, and capital leases essentially on a level playing field and expose the relative cost differences between the various transactions. If it is assumed that the only cost difference between lease/purchase and purchase or construction is the difference between the private cost of financing and Treasury's cost of financing, then the savings are the difference in the cost of financing.

Assume the private financing costs are 50 to 100 basis points more than Treasury financing. For a $100 million building financed over 30 years the savings from financing through Treasury would be between $500,000 and $1 million the first year and $12 to $25 million over 30 years. Since the BEA scoring rules began in 1990, GSA has received approximately $3.4 billion in appropriations for new construction. The savings of acquiring the buildings outright as opposed to private financing through lease purchase will save between $400 million and $850 million over 30 years.

Ms. NORTON. Mr. Chairman, I thank you for your indulgence.

Mr. TRAFICANT. Before I go to the gentleman from Tennessee, I want to say this, that the gentlewoman from the District has the support of the Congress. We have a real problem, a problem in the

whole country. We have elected officials who are supposed to set policy and set priorities, who now wait to see what OMB is going to do. I don't know what anybody else is going to do, but this is a big problem for our country.

You have qualified staff, but they are making too many damned decisions for this subcommittee, I'm going to tell you that. I don't know about anybody else, but that position that was stated by the gentlewoman from the District of Columbia, our friend, is the position of this subcommittee, period.

Before I go on, Dr. Rivlin, let me say this. I have a real problem with the nebulous areas of your testimony in trying to reconcile the policies that come forth from OMB and the problems that are forcing a confrontation in governments—governments of elected officials versus unelected officials—policy clearly within the mandate and the scope of the Congress being delegated too much.

One of the questions specifically is that you made a statement that you cannot say until you evaluate how effective, if at all, the scoring rules have been. But you come in here, defending this system in the face of embarrassment to the point where you have national news magazines circling around some of these projects—let me finish. If, in fact, we listen to your testimony, you would have budgeted for the Atlanta project, what else would GSA have been able to do in the rest of the United States, which still exists, you know?

We have some real problems with priorities. We are making legislative decisions on OMB priorities. I don't know who is going to get to whom on Appropriations, or in the Speaker's office, but the priorities for this subcommittee are going to change. We don't want you to leave here an enemy, and I'm worried about that. We want a commitment from you that you and your staff will be available to meet with our staff to develop—if not a marriage, a good shotgun wedding, Alice, because we want a change. We want a change. We don't want unelected staff going back-door to other staffs and other priority policymakers here or on other committees to massage people to get us off anybody's back.

Ms. NORTON. That just makes it worse.

Mr. TRAFICANT. It is making this subcommittee very, very frustrated.

Ms. RIVLIN. Mr. Chairman, there are several issues here. One is the question of the scoring rules. We are offering our opinion on a bill before the Congress. Our opinion is negative. This scoring is in the law; it is not something that we made up. It is in the Budget Enforcement Act of 1990, and it would take a law to change it. So——

Mr. TRAFICANT. That's what we're about, Alice.

Ms. RIVLIN. We can have an opinion on a law, but you make the laws. We are not asserting any prerogative here. This isn't our idea; it was the Congress' idea, and it is in the legislation. You have every right, if you want to, to change the law. We are offering our opinion that that would be a mistake. That's the question you asked us, and we are here to answer it.

This is the opinion of myself and my boss, Leon Panetta. This is not something the staff made up.

Mr. TRAFICANT. See, Alice, you have told us that you're against changing the law. But you have also cited all of the ramifications that are a consequence of the existing law, that have people at each other's throats because the law is no good, it doesn't work.

One of the things you should do with a bad law, Alice, is throw it out. That's what we're about, you see? You're here without an option for us. You're here without an alternative. You've never even scored—listen to this—scored the effectiveness of comparative data analysis on whether or not the 1990 law, which includes the scoring rules for GSA, is effective for the taxpayer.

You talk about building purchase. You come in here about building purchase. OMB never put a dollar in the budget for building purchase. Never. Never. You know, I hear all this political talk all my life. I look at a budget, Alice; the budget will tell you the policies of a nation, and our policy is in our budget, not in our testimony.

We have some big problems. You're not a betting woman, but we're gambling with taxpayer dollars all over America, and we're losing—losing.

Ms. RIVLIN. Well, let me say just one more time that we want the best deal for the taxpayer, just as you do, Mr. Chairman. We want to work with you on that. Our only dissent is that we do not believe that changing the scoring rule moves us in that direction. We think there are lots of other things that could move us in that direction, including very serious review of the options for each project, and we're for that.

Mr. TRAFICANT. That's what you said last time.

Ms. RIVLIN. That's what I said last time; that's what I believe.

Mr. TRAFICANT. No, no, no. That's what OMB has said to this subcommittee and all the other subcommittees all the time, Alice, and they never even budget any money for it.

You want the best deal? You're not giving support to a legislative initiative that will provide for a wide array of options to in fact seek the best deal.

Ms. RIVLIN. Well, watch what we do in the next budget and the one after that. I think that together we can change this for the better—

Mr. TRAFICANT. We appreciate that.

Ms. RIVLIN [continuing]. But not by changing the scoring rule.

Mr. TRAFICANT. We appreciate that recommendation. We want to change those scoring rules and we want to give GSA the same tools in the marketplace that everybody else has. And if in fact it is going to take, maybe, a collision on who governs America, maybe this as a microcosm has become part of an overall attempt to take Government back by elected officials. That is the bigger problem that we see. Frankly, that's what has everybody messed up around here.

Ms. RIVLIN. I don't think anybody is questioning the right of the Congress to change a law. I'm certainly not.

Mr. TRAFICANT. Good.

Mr. Clyburn?

Mr. CLYBURN. Mr. Chairman, in view of the time, I do have some questions that I would like to submit for answers later. You said the record is going to be open for 30 days?

Mr. TRAFICANT. Yes, it will be.

Mr. CLYBURN. I will submit questions, because I do have another obligation at this time.

Mr. TRAFICANT. I appreciate that.

[The questions submitted by Mr. Clyburn and the answers thereto follow:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington DC, November 3, 1993.

Hon. ALICE RIVLIN,
Deputy Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR MS. RIVLIN: I am writing to transmit my questions for the record following the Subcommittee on Public Buildings and Grounds hearing at which you testified on October 28, 1993.

(1) The budget scorekeeping rules require that all lease-purchases and capital leases of capital assets be scored upfront. Why were such budget scorekeeping rules put into the Budget Enforcement Act Conference Report of 1990, and what corrective action was OMB's objective? Also, did OMB consider at all the unique nature of real estate transactions?

(2) Has there been a clear and consistent pattern of savings since the rule changes?

(3) In general, how has OMB measured the success of these scorekeeping rules and is the agency satisfied with the results? And has OMB evaluated the effect these rules have had on the economic planning of the General Services Administration (GSA)?

(4) Has the GSA contacted OMB regarding GSA's unique circumstances and offered possible solutions to any problems?

(5) What solution has OMB proposed to rectify this economic perversion?

(6) What is OMB's response when GSA consistently recommends construction over leasing, but presents to Congress a prospectus for leasing?

(7) Does OMB believe it is more economical for the federal government to own rather than lease its office space, and what does OMB feel is the appropriate own/lease ratio?

(8) Has OMB contemplated how GSA might take advantage of the Resolution Trust Corporation and Federal Deposit Insurance Corporation properties currently available?

Thank you for your attention to these matters. If I may provide clarification to my inquiry, please do not hesitate to contact me.

With kindest regards, I am

Sincerely,

JAMES E. CLYBURN,
Member of Congress.

CONGRESSMAN CLYBURN—QUESTION 1

Question. The budget scorekeeping rules require that all lease-purchases and capital leases of capital assets be scored upfront. Why were such budget scorekeeping rules put into the Budget Enforcement Act Conference Report of 1990, and what corrective action was OMB's objective? Also, did OMB consider at all the unique nature of real estate transactions?

Answer. The scoring rules on leases, lease purchases, and purchases were included in the Statement of the Managers that accompanied the Omnibus Budget and Reconciliation Act (OBRA) of 1990 and were continued in OBRA of 1993. The rules were included to encourage agencies to select the lowest cost option when acquiring a capital asset. The rules require agencies to reflect the full cost of purchases, lease purchases, and capital leases in the first year of the transaction. This exposes the higher cost of private financing that often accompanies lease purchases or capital leases and encourages agencies to select the lowest cost option.

The rules are consistent with the unified budget concept and the Anti-deficiency Act. They were included, in part, because prior to the passage of OBRA of 1990, the actions by the Appropriations Committees to exempt lease purchases of buildings from the requirements of the Anti-deficiency Act had the effect of not reflecting the spending in the Budget. This was viewed by the Budget Committees as an attempt to move capital acquisitions off-budget, and the OBRA brought these purchases back into the budget.

Lease purchase and capital leases are not unique to real estate. Any capital asset including buildings, automobiles, ADP equipment, planes, ships, and housing can be acquired through lease purchase or a capital lease. The only basic difference between these transactions and outright purchase is the source of financing. Because Treasury financing is cheaper than private financing, outright purchase is usually the most economic way to acquire the asset.

Congressman Clyburn—Question 2

Question. Has there been a clear and consistent pattern of savings since the rule changes?

Answer. As indicated in the hearing, OMB does not have estimates of the total savings governmentwide that have been achieved since the BEA scoring rules were implemented.

The scoring rules place purchases, lease/purchases, and capital leases essentially on a level playing field and expose the relative cost differences between the various transactions. If it is assumed that the only cost difference between lease/purchase and purchase or construction is the difference between the private cost of financing and Treasury's cost of financing, then the savings are the difference in the cost of financing.

Assume the private financing costs are 50 to 100 basis points more than Treasury financing. For a $100 million building financed over 30 years the savings from financing through Treasury would be between $500,000 and $1 million the first year and $12 to $25 million over 30 years. Since the BEA scoring rules began in 1990, GSA has received approximately $3.4 billion in appropriations for new construction. The savings of acquiring the buildings outright as opposed to private financing through lease purchase will save between $400 million and $850 million over 30 years.

Congressman Clyburn—Question 3

Question. In general, how has OMB measured the success of these scorekeeping rules and is the agency satisfied with the results? And has OMB evaluated the effect these rules have had on the economic planning of the General Services Administration (GSA)?

Answer. The scoring rules appear to have had the intended effect of encouraging agencies to acquire capital assets through the lowest cost alternative.

With respect to GSA's planning process, OMB is working with GSA to develop a multi-year capital asset acquisition plan as part of the budget process. This plan would establish in priority order a five-year schedule for acquiring needed buildings. In addition to GSA, we envision requiring all agencies to submit capital acquisition plans. These plans would be evaluated as a part of the budget process and spending for capital acquisition would compete across agencies as well as with other budget priorities. This approach should ensure that the needed capital asset acquisitions are included in the budget.

Congressman Clyburn—Question 4

Question. Has the GSA contracted OMB regarding GSA's unique circumstances and offered possible solutions to any problems?

Answer. GSA is not unique. All agencies have to stretch scarce resources especially in the current budgetary and economic constraints. How space is acquired, like any input to program delivery, depends on a careful examination of the type of space, location, the length of need, and a comparison of the benefits and costs of the alternatives relative to other program needs.

OMB and GSA are working together to develop a multi-year acquisition plan as part of the Budget. Such a plan would weigh not only GSA's capital needs but other agencies' capital needs and operating needs as well. We are confident that needed capital asset acquisitions will be included in the budget.

Congressman Clyburn—Question 5

Question. What solution has OMB proposed to rectify this economic perversion?

Answer. The scoring rules on leases, lease purchases, and purchases encourage agencies to select the lowest cost option when acquiring a capital asset. The rules require agencies to reflect the full cost of purchases, lease purchases, and capital leases in the first year of the transaction. This exposes the higher cost of private financing that often accompanies lease purchases or capital leases and thereby gives agencies an incentive to select the lowest cost option. The rules result in an efficient

outcome, not an uneconomic one. In order to ensure that the budget includes resources for needed capital asset acquisitions, OMB is developing a crosscutting capital planning and analysis of capital asset acquisition as part of the budget formulation process.

Congressman Clyburn—Question 6

Question. What is OMB's response when GSA consistently recommends construction over leasing, but presents to Congress a prospectus for leasing?

Answer. GSA's prospectuses routinely include a 30-year present value comparison of leasing to ownership. These comparisons assume that the space will be needed for 30 years, leasing costs will escalate at the same rate as inflation, and the residual value of the owned asset is the projected fair market value. Over 30 years it would be surprising if ownership was not always cheaper than leasing. The major problem with these prospectuses is that in many cases there is not a known long-term need for the space. In these cases, a 30-year comparison is not valid, and ownership could lock the Government into future space that it does not need.

Furthermore, the value of Federal buildings after 30 years is normally not as high as implied by this method of estimating residual value. Federal buildings are rarely sold. When they are, they often are sold or transferred to other governmental entities for much below the fair market value. Of those that are kept and not sold, many are placed on the historic register and the cost of maintenance and repair often exceeds the cost of acquiring brand new space. As a result, assuming the fair market value for the residual value of Federal buildings inaccurately skews the economic analysis towards ownership.

To be more useful, these prospectuses should include comparisons that are based on the known length of need for the space and should use residual values that are more representative of the likely value, or cost, of owning the asset.

Congressman Clyburn—Question 7

Question. Does OMB believe it is more economical for the Federal Government to own rather than lease its office space, and what does OMB feel is the appropriate own/lease ratio?

Answer. Where there is a known, long-term need for space in a particular location, ownership usually will be cheaper than leasing, because the Treasury can borrow at a lower interest rate than private developers. In addition, certain types of special purpose facilities, such as courts or border stations, will be cheaper to own than to lease, simply because these facilities are not available in the marketplace.

Leasing offers the Government a cost-effective solution to housing Federal agencies when the need is shorter-term or where there is uncertainty as the future need for space in a specific location. Although the total need for space may appear to be relatively constant if not growing, specific needs for space in a particular location are dynamic and likely to change significantly in the future. For example, the following will have a dramatic effect on the workplace:

—Changing priorities among the departments and agencies;
—The Administration's policy to decrease the size of Government employment;
—Advances in automation, telecommunications, and transportation;
—Locality pay;
—Changes in the demographics of the country; and
—Innovations such as work-at-home and flexiplace.

These developments will alter the location and need for space, and leasing would permit the Federal Government to be more responsive in accommodating these changes.

For these reasons there is no appropriate overall ratio of owned to leased space that should be a guide for government policy. The need to own or lease space is driven by the unique requirements for space in a given location based on the type of space and the length of time the space is needed.

Congressman Clyburn—Question 8

Question. Has OMB contemplated how GSA might take advantage of the Resolution Trust Corporation and Federal Deposit Insurance Corporation properties currently available?

Answer. On March 26, 1993, Director Panetta forwarded a report to the Appropriations Committees on GSA's acquisition of RTC properties (copy attached). The report describes efforts underway between GSA and the RTC to facilitate the identification and acquisition of properties held by the RTC that may be suitable for acquisition by GSA.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC., March 26, 1993.

Hon. STENY HOYER,
Chairman, Subcommittee on Treasury, Postal Service, and General Government, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to a provision in the reports that accompanied the House and Senate versions of the Treasury, Postal Service and General Government Appropriations Act, 1993. The reports direct the Office of Management and Budget (OMB), the Department of the Treasury, and the General Services Administration (GSA) to work together to establish procedures which will ensure that Resolution Trust Corporation (RTC) properties can effectively be used to satisfy space requirements of Federal agencies.

Enclosed is the report which responds to this request. This report has been reviewed and agreed to by GSA and the Department of the Treasury.

Sincerely,

LEON E. PANETTA,
Director.

Enclosure.

[Identical letters sent to Hon. Dennis DeConcini, Robert Byrd, Christopher Bond, Mark Hatfield, Jim Ross Lightfoot, William Natcher, and Joseph McDade.]

REPORT

This report is in response to a provision in the reports that accompanied the House and Senate versions to the Treasury, Postal Service and General Government Appropriations Act, 1993. The reports direct the Department of Treasury, the General Services Administration (GSA) and the Office of Management and Budget (OMB) to work together to establish procedures which ensure that RTC properties are considered for use in satisfying the space requirements of federal agencies.

Since 1991, GSA and the RTC have worked together to determine if the agencies could develop procedures to ensure that GSA considers RTC properties when they are authorized to acquire property to satisfy an identified space requirement (correspondence relating these activities is attached at Tab A). As a result, GSA suggested a memorandum of understanding which (i) requested RTC work with GSA to develop a different valuation methodology and (ii) requested RTC set aside properties pending GSA action.

RTC responded, and Treasury agreed, that under current law GSA's request would violate its fiduciary responsibilities to the creditors of the receivership. The RTC, when acting as receiver, is required to maximize the return to the uninsured depositors and other creditors of failed savings and loans. Establishing a separate valuation methodology or setting aside properties pending GSA action could result in a loss of revenue to the creditors of the receivership.

The RTC did suggest, however, establishing a pilot program with GSA. Under the pilot program GSA identified areas where there was a housing requirement and RTC supplied them with a list of the properties available. Under this pilot program RTC continues to use its standard valuation method (see Tab B) and GSA participates in the purchasing process under the same terms offered all other prospective buyers.

Since March 1992 GSA has identified at least four RTC properties that would fulfill an identified space requirement. GSA has pursued the acquisition of these properties as follows:

- March 1992—GSA entered into a letter of intent to purchase the Crown Ridge building in Fairfax, Virginia. The purchase was contingent upon satisfactory engineering investigation of the property. The investigation disclosed a number of engineering problems. The cost of remedying the problems would have resulted in a total property cost that exceeded the market value of the property.
- July 1992—GSA submitted an unsuccessful bid to acquire a building in Toledo, Ohio. The GSA competed in a sealed bid auction for the property. The successful offerer was Lucas County, Ohio, the county which encompasses Toledo.
- GSA submitted an unsuccessful bid on unimproved land in Phoenix, Arizona, as a potential site for a U.S. courthouse.
- GSA believes an opportunity may exist to acquire approximately 600,000 square feet of office space in addition to a parcel of land in the Washington, D.C. area. The RTC is planning to handle this disposition as a negotiated sale.

Under the Financial Institutions Reform, Recovery, Enforcement Act of 1989, as amended by the RTC Refinance, Restructure and Improvement Act of 1991, RTC's

authority to close financial institutions ends as of September 30, 1993. RTC will still have asset disposition responsibilities through 1996; however, few new assets will be added to the inventory if RTC's responsibilities are not extended, except through foreclosure of loans held by the RTC.

According to the RTC and GSA, most of the properties in the current RTC inventory do not meet GSA's requirements. Most of the office buildings in the inventory are smaller B and C quality office buildings which generally do not meet GSA's standards for health and safety requirements. However, for those properties which have met GSA requirements, GSA has not been successful in the bidding process.

We recommend that GSA and RTC continue the pilot program to identify properties that will meet GSA's space requirements. Further we recommend that GSA pursue through either negotiated sale or bid those properties that will provide the best housing alternative for an identified need.

This report has been reviewed and agreed upon by GSA and the Department of Treasury.

Mr. TRAFICANT. The gentleman from Tennessee, Mr. Duncan?

Mr. DUNCAN. Dr. Rivlin, you say you want the best alternative for the taxpayers, and that's what we all want. You say the scoring rules are not the problem.

Most respectfully, I will say that almost everyone, even including people at OMB, have told us privately—some say they can't go on the record—that the scoring rules are the problem.

Let me show you one thing that has been submitted to us. Chairman Mineta and Chairman Traficant, the Democratic leadership of this committee, requested that GSA do an analysis in this past spring, and it was submitted to OMB. It shows in this paper different alternatives. What they did, they took what they considered a typical Federal building. It says, "Budget authority scored up front: construction, $79.8 million; purchase, $79.8 million; lease-purchase, $90.9 million; lease-purchase 2, $97.3 million; capital lease, $93.2 million; operating lease, $9.1 million."

You go on over into construction; they spend this $79.8 million in three years, assuming that it's being built in three years. Anyway, over here at the end you have "Total spent: $79.8 million if construction was followed; residual value: $26.7 million." Under the purchase plan, "$79.8 million spent, residual value, $26.7 million." That's after 23 years. "Lease-purchase 1, $165.3 million spent, $26.7 million residual value; lease-purchase 2, $190 million spent, $26.7 million residual value; capital lease, $182 million spent, zero residual value; operating lease, $182 million spent, zero residual value."

Now, the option that would be pursued or followed under these present scoring rules is this one at the bottom, in which people could say, "Well, we followed the cheapest alternative under these scoring rules"——

Ms. RIVLIN. Only if you look at one year at a time, which you shouldn't.

Mr. DUNCAN. Well, under these scoring rules, though, that's what we've been doing, see?

Ms. RIVLIN. No, but you shouldn't. That's the point.

Mr. DUNCAN. Well, you shouldn't. I agree with that.

Ms. RIVLIN. When you are thinking about acquiring a long-term asset—whether to buy it, lease it, whatever—it is a mistake to look at only one year. That's always a mistake. You wouldn't do that if you were buying a house.

Mr. DUNCAN. That's what we've been doing under these scoring rules, though; that's the problem.

Ms. RIVLIN. But we shouldn't.

Mr. DUNCAN. Well, I agree with that. I agree with that.

Let me ask you one last thing. We had estimates from private contractors on the Atlanta project of construction totalling $229 million. We have an estimate from GSA that it would be $303.9 million to construct, so let's say that construction costs are in the range of $229 million to $304 million. The cost of the lease is going to be—is it $708 million or $704 million? It's $708 million. That is a big, big difference.

Ms. RIVLIN. Right, and we were opposed to this 27-year lease. We didn't think that was a good idea at all.

Mr. TRAFICANT. Would the gentleman yield?

Mr. DUNCAN. Yes.

Mr. TRAFICANT. Have you ever conveyed that to the Congress, your opposition to this long-term lease?

[No response.]

Mr. TRAFICANT. I would like to know in what communicative form or device that transmission was made, and who did it.

Ms. RIVLIN. We did not support, in the Treasury-Postal appropriation, the long-term lease.

Mr. DUNCAN. But you did not oppose it, though?

Ms. RIVLIN. I do not have the exact language of the statement of Administration position in front of me. But we did not support it.

Mr. TRAFICANT. Would the gentleman yield?

Mr. DUNCAN. Yes.

Mr. TRAFICANT. Alice, my question was, I want to know what form of vehicle you used to transmit to the Congress your opposition to the long-term lease for Atlanta.

Ms. RIVLIN. We'll check that.

[The following was received from Ms. Rivlin:]

OMB'S METHOD OF TRANSMITTING ITS POSITION ON THE PROPOSED ATLANTA LEASE

Question: What vehicle did OMB use to transmit its opposition to the long-term lease of up to 1.4 million square feet of space to be constructed by the Downtown Development Authority, in Atlanta, GA?

Answer: See answer to question on page 16.

Mr. DUNCAN. Let me just finish with this. Regardless of what's been done in the past, as you sit here today, do you think that is a good deal or a bad deal for the taxpayers of this country?

Ms. RIVLIN. I think we ought to review the needs in Atlanta. If we need a building there, we ought to buy or build one, not enter into a long-term lease.

Mr. TRAFICANT. Will the gentleman yield?

Mr. DUNCAN. Yes. That's all I have.

Ms. RIVLIN. I don't know how badly we need a building in Atlanta, but——

Mr. TRAFICANT. I don't mean to interrupt, but I want to make a point.

The Congress has determined that we need a building in Atlanta. "We" is not a term; the Congress decided.

Now, within the legal constraints available to us, we have to provide the building, Alice, and here's the real problem we have. We have an awful lot of people who say they don't support things, but

they turn their backs and they are silent on those things. And then we take the coverage of that act of omission at some point as being an opposition position, and it's not. If OMB didn't want a long-term lease in Atlanta, there would have been a significant conveyance of that opposition to the Congress of the United States, and I don't think it exists. I want it within 30 days.

I am also going to ask you, I want to know if there is anything that supported that. I want to see OMB's position on Atlanta——

Ms. RIVLIN. We'll check the record, but I can tell you right now, we're not in favor of doing the more expensive thing.

Mr. TRAFICANT. Before I go to the gentlewoman from the District, we want to know what you will support, and we want a commitment that OMB will work with our very qualified staff and elected officials of concern here. And if not this, Alice, what? Because we are prepared, if this is not good for the country, to modify it with a legislative initiative that is going to be better than what we have.

Ms. RIVLIN. Mr. Chairman, we're happy to work with you on anything. That's why we're here.

Mr. TRAFICANT. OMB opposed this, opposed this hearing.

Ms. RIVLIN. Opposed this hearing?

Mr. TRAFICANT. And here's what we're opposing. We're opposing the taxpayers getting ripped off.

Ms. RIVLIN. So are we.

Mr. TRAFICANT. We're opposed to limiting our Government from being more cost-effective and cost-conscious. We do not like the fact that we are tying a significant real estate activity—number one in our country—tying their hands, and then coming in here and giving us an awful lot of reasons why tying their hands is best for the taxpayer.

Now, no one here believes that we have all the answers, but I will tell you this. We know when something is wrong. Sometimes it even stinks, and the stench of some of these projects, by the very nature of the construct of our legislation, is telling us.

What I'm worried about—I'm going to be frank—is your leaving here and, "Darn, we won't take this, and we all put up our walls." We've been honest and open in an open forum. We want to work with you to find that alternative, if not this. So we want a commitment from OMB that that process will ensue, and that people will be appointed to the process to participate. Do we have that commitment from OMB?

Ms. RIVLIN. You have a commitment that we will work with you.

I've worked up here. I don't believe in walls between the Executive and the Legislative branches. I've spent a lot of time in front of Congressional committees. I'm not easily intimidated. I really believe that we can work together on a solution to all of these problems that is best for the taxpayers over the long run. That's why we're here, and we are very happy to work on it.

Mr. TRAFICANT. Does that mean that you will appoint staff to participate in the process when our people call OMB?

Ms. RIVLIN. Well, Leon and I can't do everything. We have staff. We have very good staff, but if you need to talk to one of us, just call us. That's not hard.

Mr. TRAFICANT. We'll do that, Alice, but we want a commitment that staff will be made available to work with our people.

Ms. RIVLIN. Absolutely.

Mr. TRAFICANT. Fine.

The gentlewoman from the District?

Ms. NORTON. Mr. Chairman, I just have one more question.

I want to say that in light of Dr. Rivlin's testimony, I think we have probably gone past the point where we might get some understanding administratively on this, because she has testified that she is against changing the scoring rules. I think we need to move forward in the legislative process where we have agreement, bipartisan in both Houses. I recognize that Dr. Rivlin and Mr. Panetta have had a very full plate, and I don't think a lot of time has been spent on this and I don't anticipate that a lot of time is going to be spent on it in the future in light of the testimony we have received here.

My only real disappointment is that, Ms. Rivlin, you have testified that you are against changing the scoring rules, but you have submitted no alternative that would allow purchase of Federal buildings to proceed. So you would really leave us where we are. Worse, I must say that it is rare when any agency of the Government doesn't want, at least for itself, great flexibility. It might not want to use it, but our experience is that agencies want more flexibility.

Indeed, the whole tone and underlying theory of the National Performance Review is "Let's get rid of these things that keep people from using the tools available to them and make the Federal Government as flexible as the marketplace," and what you've testified today goes absolutely against that when you testified that the scoring rules should not be changed. When you testify in that way, I know what we must do. We must move forward as we can through legislation.

As far as I'm concerned, Mr. Chairman, I don't believe we need to work with other staff at OMB, because we have heard from the top that they don't want the kind of change that your bill would bring.

To show you how much I think we have a standoff there, in the first place, as I read the law and as our counsel has read the law, these changes could have been made administratively. So your testimony about how it's in the law and nothing could be done is flat wrong. It could be done. We submitted a proposal for doing it. It could have been done and over by now, and that's why I'm not willing to wait any longer.

The way the scoring is being done is particularly irrational. We know why a purchase is scored the way it is. We know why leases are scored the way they are. There's no asset in the end. Given a lease-purchase and the reasons people do lease-purchases in the first place, one would hardly expect them to be scored as if they were a purchase. The whole point of lease-purchase is to get the best characteristics of leasing and owning. So you don't, therefore, score the lease-purchase in a way that completely undercuts its very raison d'etre.

Once I hear testimony that you think that's the best way to go, that you don't even want the tool in your arsenal, I know that what we have seen over the past several years which drives agencies absolutely toward long-term leases is all we are going to see hence

forward, unless we simply do what Congress always does when they cannot get an agency to do something administratively, and, therefore, I will be pressing the Chairman to simply move ahead with the legislation. Let's get this torture over with.

Thank you, Mr. Chairman.

Mr. TRAFICANT. Thank you.

Alice, we still will give you an opportunity to sit down and see if there are some additional things that could be included that you might have concerns with, but we will go forward with the legislative initiative, and we want to have your input, because we would like to have ultimately an agreement in principle so that we don't have to reinvent the political process around here. Hopefully, we can get that done. Nobody on this subcommittee, by the nature of our questions, intends to intimidate anybody. There's a lot of frustration. Maybe it's time that this subcommittee has taken that position.

We believe that you've done a fine job. You have a very difficult job. I think Eleanor has come to the point where there are so many issues, that you're certainly not going to sit down with a microscope and deal with this one full-time. We understand that. We are. That's our job. We don't have to deal with all these other things.

So we want to thank you for your testimony. We want in writing those particular questions that we had asked of you and any other supporting corroboration of any of those saline points. We thank you for being here with us today.

Ms. RIVLIN. Thank you, Mr. Chairman.

Mr. TRAFICANT. Thank you, Alice.

As Mr. Duncan had stated earlier, Mr. Johnson's personal residence is in flames. He's gone out there and joined the firefighters. We have here the Deputy Administrator of GSA, Julia Stasch, that will be presenting testimony for us.

Julia, come on up, and now that everybody's mad, get your best hold. [Laughter.]

Mr. TRAFICANT. I believe that you have Dennis Fischer with you. Welcome. Go right ahead.

TESTIMONY OF JULIA STASCH, DEPUTY ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, TESTIFYING ON BEHALF OF HON. ROGER W. JOHNSON, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY DENNIS FISCHER, CHIEF FINANCIAL OFFICER, GENERAL SERVICES ADMINISTRATION

Ms. STASCH. Thank you very much. I do want to thank you for the indulgence of permitting me to testify in Mr. Johnson's absence. This topic is very important to him personally, and it's something that he has some very definite opinions about.

Dennis Fischer is going to join me. He's our CFO, and he has a historical perspective on some of these issues as well as some of the facts about particular projects that I may not be able to answer.

Mr. Johnson had just a few opening remarks that he asked me to make, and these are his words. He wanted me to say, first of all, in his words, "First, let me make it clear that one of the many things I've learned over the past three and a half months is that

the Federal budgeting process is unlike any I've ever seen in 37 years of budgeting in private business. Therefore, there is no way that I can actually comment on specific changes, let alone specific language changes. I've also learned, however, that wasting money can be identified as fast and as easily in Government as it can in industry—in fact, much faster and easier because there's so much more of it and it's so much bigger.

In the matter of real estate, the facts are that, for whatever reason, the Federal Government has nearly half of its general purpose office space in leases that in many cases cost taxpayers a significant premium over occupying owned space. I'm told by experts that the scoring rules which were put in place for good reason have had an unanticipated adverse effect on space acquisition planning and decisions.

This administrator is committed to the President and to the Congress by the NPR and the confirmation process to present and support only those acquisition approaches that are in the long-term best interest of the taxpayers. We've been assured by OMB that they share this view, and with the cooperation of the appropriate committees in Congress, I'm confident that we'll be able to explore ownership options as current leases expire that, in the worst case, will result in no annual cash payment premium and could actually generate savings, while bringing into the inventory assets with permanent value."

I'm prepared to discuss and answer questions.

Mr. TRAFICANT. Before we go to some questions, one of the things this subcommittee feels very strongly about is that the oversight that's developed over the years on GSA is not from the Congress of the United States, but from the Office of Management and Budget. Do you agree with that?

Ms. STASCH. We feel that there is perhaps a more intense dialogue about some of the smaller details of acquisition strategy than there needs to be.

Mr. TRAFICANT. Well, then, in certain areas I could take that as a partial, with clarifications and exceptions, yes? [Laughter.]

Ms. STASCH. Yes. [Laughter.]

Mr. TRAFICANT. Now, Eleanor would ask that question differently, but Duncan would hit you with figures. Duncan's from the street, you know. [Laughter.]

Mr. TRAFICANT. I think we see a good agency—in fact, an excellent agency—that's trying to do a job. We have had people come before us, we've had GAO reports, and the people in GSA and other units that are responsible for space end up taking heat and their names get in the newspaper and on television as if they're Darth Vader, and they're not really the culprits. I think the Congress has to now do something about that.

The problem that I have at this point with GSA is GSA is a branch of the Executive Office, doesn't want to make enemies within the Executive Branch, and the GSA clearly has a chance now with a Congressional focus to right some wrongs. We're not asking anybody to change allegiances, but we believe OMB is making decisions for GSA that's giving us all GAS on this committee. [Laughter.]

Mr. TRAFICANT. That's the bottom line, and we want to open this thing up so you can do the best job and all the brilliant people you have can save money for our taxpayers, and we can't do it because GSA doesn't want to say that OMB's on their back, and we can't deal with OMB because GSA says everything is fine. This is a mess. Do you want to comment on the mess? [Laughter.]

Ms. STASCH. We think we have an opportunity here and in the time out in review to bring back to Congressional committees and to the wider scrutiny of the taxpayer the economic impact of looking at a number of transactions in a different way. We have within the time out in review inventory 15 to 20 leases which we think could possibly be more appropriately acquired through various ownership options, and we're not limiting the view to outright purchase, because outright purchase is not, in our view, the only alternative to long-term leasing.

Mr. TRAFICANT. Good. That sounds so good. Would you give us the projects that you just mentioned in writing and show us what comparative analysis data you have performed on those projects?

Ms. STASCH. I think within the next 30 days we'll be able to present all of the lease projects that are in that inventory that we're looking at for purchase alternatives.

[Information provided follows:]

The following is a list of 23 candidate projects for potential Government ownership. This list includes both lease prospectus projects previously submitted to the Congress, as well as new projects for fiscal year 1995. The projects in the formal fiscal year 1995 program submission may include many, but not all, of those identified in this list.

All projects will be confirmed by the "time-out and review" process as valid candidates. Some projects may be dropped from the list, based on the "time-out and review" results. Additionally, as other opportunities are identified, prospectuses may be developed and submitted after review by the Office of Management and Budget.

Project Name	City	State
Multiple Agencies	Dallas	TX
Multiple Agencies	Newark	NJ
PTO	Northern	VA
Multiple Agencies	Philadelphia	PA
Judiciary Ctr	Washington	DC
Multiple Agencies	Boston	MA
Multi Agencies-U Ctr Pl	Washington	DC
FCC	Washington	DC
Berkley Bldg	Arlington	VA
EPA	San Francisco	CA
FEC	Washington	DC
Mult Agencies-Reporters	Washington	DC
IRS	San Jose	CA
US Attorneys	Philadelphia	PA
Todd Bldg	Washington	DC
ITC	Washington	DC
DOJ/CRM	Washington	DC
EPA	Seattle	WA
EEOC	Washington	DC
1620 L Street	Washington	DC
FAA	Met NY City	NY
INS	Miami	FL
FDA	Brooklyn	NY

Mr. TRAFICANT. What criteria and what type of circumstances would you use to employ the lease-purchase mechanism as an option that doesn't exist to acquire an asset now?

Ms. STASCH. I think the first assumption has to be that we need to house Federal employees, and based on that assumption, there will be, under all circumstances, a continuing cash outlay. The outer limit of the analysis is the long-term cash outlay of straight leasing. The lease-purchase option in the analysis should only be viable in this spending cap environment if it actually results in no additional cost out of pocket each year. If that is true and at the end of the day you have an asset that has value, we believe that we have achieved a more advantageous transaction for the taxpayer and the Federal Government.

Mr. TRAFICANT. So there is what we refer to as this "needs analysis" process within GSA. Given that, is that criteria or is that needs analysis scenario, as discussed, reviewed by OMB?

Ms. STASCH. The actual space needs that the agencies have identified?

Mr. TRAFICANT. And the analysis of these different cost processes which you've discussed as well.

Mr. FISCHER. Yes, sir, it is.

Mr. TRAFICANT. And do they comment on this analysis?

Mr. FISCHER. Yes, sir, they do. We go back and forth with them on the details of it, on each individual transaction.

Mr. TRAFICANT. Can they in fact change a needs analysis?

Mr. FISCHER. They clear the material that is sent to the Congress, all the proposals, so in effect they can determine what goes up.

Mr. TRAFICANT. Let me ask you this. If they don't like what you're saying, they can change what you're saying before it gets to the Congress of the United States. Is that right?

Mr. FISCHER. Yes, sir.

Mr. TRAFICANT. Is there ever any written documentation of this process showing a change in the recommendations that would have been made to the Congress and then showing the modified submission to the Congress after OMB has put their little fingers on it?

Mr. FISCHER. I think we do have situations where things go back and forth, that we submit and that are ultimately submitted to the Congress that are different. Yes, sir.

Mr. TRAFICANT. Okay. We would like to ask that the agency review some of those matters and report to the Congress and submit some of the documentation showing the needs analysis and the review that's made by GSA that would have been sent to the Congress, documenting and showing the modification after OMB has had it. Can you do that and get that?

Ms. STASCH. Yes, we can.

[Information provided follows:]

As of the date of the hearing before the subcommittee, OMB had not provided its passback to GSA on the fiscal year 1995 budget request. Although the OMB passback may eliminate projects or modify funding levels for those approved to go forward, there is little in the way of detailed documentation of the process. Typically, GSA modifies draft prospectuses in accordance with OMB-approved requirements and funding levels and submits the resulting document to the Congress for its consideration. In most instances, OMB provides no more than a synoptic reference in requesting a change.

Mr. TRAFICANT. Let me ask you this, then, before I go to Mr. Duncan. We've heard quite an extensive discussion about Atlanta. The subcommittee supports the space and the space needs that

GSA has promulgated and presented to us, and we will continue to support that. The subcommittee, much of it due to the credit of Mr. Duncan from Tennessee, does not like the fact that there is such a hemorrhaging in cost by the way we score. Would you respond as to the process in which GSA ultimately has submitted to the Congress a package that involved a long-term lease under such scoring scenarios to us? How did that happen?

Ms. STASCH. I'd like to answer that question and another one which may be a follow-on. Dennis can speak historically to that, and then I'd like to talk about where we are in the analysis of that project.

Mr. TRAFICANT. Very good.

Dennis?

Mr. FISCHER. I don't have detailed knowledge of the materials that went back and forth, sir. We'd have to get that for the record. But I know there were analyses done, as have been referred to earlier, that showed the differing alternatives and what our initial recommendation was. We'd have to get that for the record.

Mr. TRAFICANT. That's fine.

[Information provided follows:]

The Atlanta project was developed within the constraints of the Budget Enforcement Act of 1990, Public Law 101–508, which was specifically cited in the authorizing language for the project contained in the Treasury, Postal Service and General Government Appropriations Act for 1993, Public Law 102–393. The authorizing language prohibits GSA from entering into any lease other than an operating lease to meet Federal space requirements in Atlanta. Although the project is currently constrained by this statutory restriction, GSA has approached the procurement with sufficient flexibility to allow for a future ownership opportunity, in the event that this restriction can be legislatively modified.

Mr. TRAFICANT. Julia?

Ms. STASCH. Part of the time-out-in-review process, as we've indicated, includes a review, once again, of the needs analysis, and particularly in light of the declining size of the workforce. Therefore, we will go back and take a look at any built-in expansion space, which then would have an impact on the size of the building. That is under way. That is being reconfirmed. We are in an intense process of determining whether or not the building is as tight as it needs to be, whether it is as cost-effectively designed, whether there are any specifications or prescriptive processes or systems that GSA has specified that would increase the cost. We are looking to see if there are any systems or other elements of the project that are diminishing the flexibility of the contractors and the architects from bringing the most effective commercial approach to it.

We are confident that time out in review, to the extent that the project is reconfirmed, that under no circumstances will it be reconfirmed at $705 million over a lease term. So whatever the outcome of that—bearing in mind, of course, the least-cost alternative is outright purchase. Outright purchase is not available in this environment, and as we committed to you in a private conversation, we anticipate coming back on the Atlanta project and asking for reconsideration of an ownership option.

Mr. TRAFICANT. Then I can construe from your testimony here that GSA supports an equity position as a final result of the Atlanta project?

Ms. STASCH. That's true.

Mr. TRAFICANT. One other question we have on the wait-and-review process. We want to, number one, commend you for looking at these projects. We also want to say this to you. When GSA submits a prospectus to us and we accept the prospectus, we don't feel that in the future we'll have to wait and review anything. We would expect when we look at the prospectus that that is the position so that we can make a decision. Then we don't want to have to go back through a laborious process and reinvent and take all the time that's necessary to do that. So we appreciate the fact you have new leadership and you have stepped back and you've taken a look at these dimensions. That is commendable.

But in the future, we'd like to see more go-and-get-'em than wait-and-review. And if your 11(b)s aren't totally indicative of the position of GSA covering all these factors, then we'll have to take into consideration we might be getting 11(b)s that are open-ended and are still going to follow some review pattern from GSA. We're under the impression when you give your findings to Congress, we can make a decision predicated on those findings.

Ms. STASCH. You should be able to rely on that, and we intend to put in place a process where you should not have to ask another question about whether or not this is the actual recommendation of GSA.

Mr. TRAFICANT. Mr. Duncan?

Mr. DUNCAN. Thank you, Mr. Chairman.

Ms. Stasch, first of all, I want to say, as I've said before, that in my observation of the way that you and Mr. Johnson have run the GSA in the time that you've been there, I know of really nothing that I would have done differently, and I think you've been doing a very good job, at least on the things that I know about. You may be doing things that I don't know about, but on the things that I know about, I'm very pleased with the work that you've done.

I want to commend you for that, and I want to say, too, that I appreciate and I'm pleased to hear that you're going to come back with a less-expensive alternative in Atlanta, because that's been covered on "Prime Time Live" and many, many other national publications, and it's a project that I have been saying for a long time that we need to take another look at.

I realize, too, or at least I believe that you're in a very difficult position here today because you can't really afford to step on the toes of OMB, and I'm not going to ask you to. In fact, I'm going to be very brief and just ask you a couple of things. I could ask you about many projects around the country, but I won't do that.

The staff has mentioned one project to me, though, that I'm a little curious about—the Atrium Building in Northern Virginia. Do you know if the scoring rules had any effect on what GSA did on that project?

Ms. STASCH. This was an example which was brought out in the town meeting that the Vice President held with the GSA employees where there was particular frustration within GSA about the inability to take advantage of a very attractive opportunity to not spend a single additional dollar and end up with an asset.

Dennis has the specifics about the project.

Mr. FISCHER. Sir, we had a 10-year lease with this building. The Atrium Building lease in Herndon was to expire in 1999. The owner experienced financial difficulties, went belly up, the lender foreclosed, and the lender came to us and said, "You only take three of the four floors in the building. We'll give you the fourth floor for your occupancy, you extend your lease approximately another seven years, and at the end of that term, for $1 we'll give you the building." Because of the budget scoring requirements, we could not find the room within the caps that were imposed upon us to avail ourselves of that option, so we had to bypass that opportunity.

Mr. DUNCAN. So what you're saying is that the scoring rules did have an effect in that situation, and it was a frustrating thing to GSA employees, because you feel you had to pass up an opportunity there to save some money for the taxpayers.

Mr. FISCHER. Absolutely.

Mr. DUNCAN. All right. Mr. Johnson testified before the House Budget Committee on October 14th that the best long-term solutions can be identified by allowing market conditions at the time of procurement to determine whether specific space needs should be met by purchase, construction, lease-purchase, capital lease, or operating lease. Yet he indicated or apparently felt that GSA was currently constrained to two main methods—operating leases and direct Federal construction. Do you agree or do you feel that GSA is currently constrained? Do you feel those constraints yourself?

Ms. STASCH. We feel those constraints. Dennis can speak specifically.

Mr. FISCHER. Yes, sir. I think we end up in a best-case or worst-case decision scenario. The best case, if there is upfront budget authority, is almost always to construct and own. That is not often available, and whenever it's not available, any of the other range of alternatives are not available, we're forced into an operating lease.

Mr. DUNCAN. If we don't change the scoring rules through this legislation, is there some other alternative that you know of where we could remove some of these constraints or we could give you more options, or is there a better way to do this that you know of? In other words, I'm not asking you to endorse this legislation. I'm just saying I would like to know if you have a better idea, because certainly, as Chairman Traficant said, we don't have all the answers or all the solutions or all the knowledge, and if somebody's got a better idea, we would be pleased to hear it.

Ms. STASCH. I think in the short run we can act upon what Mr. Johnson indicated we would be doing, which is bringing for consideration, through the 11(b) process or otherwise, the range of alternatives, not the only alternative, which is shaped by the budget scoring constraints. We're confident that when we do that, rational minds will prevail.

Mr. DUNCAN. What you're going to do is show us in these 11(b) studies or reports what option you have under the scoring rules, but also you're going to present other options that would be available if the scoring rules were not in effect? Is that what you're saying?

Ms. STASCH. We would like to present it through the 11(b) or another process.

Mr. DUNCAN. In hopes that if we keep on seeing that there are cheaper alternatives if we were allowed to enter into them without the scoring rules, that hopefully that would lead to change eventually.

Ms. STASCH. That's what we're prepared to do.

Mr. DUNCAN. Well, that's good. Do you have any question or would you dispute in any way the findings in this GSA report that we've spent $12 billion that we really didn't need to spend on these leases over cheaper alternatives, as I mentioned in my opening statement? Are you familiar with that information from GAO?

Ms. STASCH. I've read the report. I can't myself substantiate the dollars, but the concept is absolutely accurate.

Mr. DUNCAN. I see. Thank you.

Thank you, Mr. Chairman.

Mr. TRAFICANT. The gentlewoman from the District of Columbia?

Ms. NORTON. Thank you, Mr. Chairman.

Ms. Stasch, I know you participated in the National Performance Review, and I'm going to say that for many of us here, and I certainly speak for myself, it is probably the best Government report I've ever seen. Instead of telling us what to do in the next 10 years, it really does have ideas that come off of the page at you, because you know that you could do them tomorrow.

I'd like to ask you to put yourself in the position that the National Performance Review assumes, that somehow Government has become as flexible as the private sector. I don't believe the private sector is all it's cracked up to be, but in some ways there are things to imitate there. Given this real estate market, the real estate market we have had during the recession and in the so-called post-recessionary period, if you were in the Government business, how would you respond to this market, and what tools would you use?

Ms. STASCH. I think there are a number of answers to that question, but I first want to thank you for your compliments. It was fun, actually, participating in creating a new sort of world for real estate, and I am hopeful that we can implement this in the short run, particularly the asset management and portfolio approach to the overall real estate portfolio of the Government.

One particular thing I think we would move immediately to do, and I hope the window has not already closed to do this, I think that particularly in major markets, where we would analyze the benefit of doing so, that we would like to unleash a group of top-notch negotiators to go back out and enter into discussion with landlords or owners of properties where we have a significant presence in leased space and see if there isn't some opportunity to negotiate an extension of a lease in exchange for a lower lease payment or to negotiate the insertion of a purchase option in exchange for a longer term or some other arrangement.

I think that we have a leverage even in our leased portfolio right now which we have not taken advantage of, and that's one of the things that I would recommend we do very quickly, before too much private sector confidence floods back.

Ms. NORTON. Of course, you couldn't negotiate a purchase option at the end of some of these long-term leases at the moment.

Ms. STASCH. That's correct.

Ms. NORTON. Although that's something that you say is a tool that would help in this kind of market, because the leverage is on your end, not the developer's end.

Ms. STASCH. At this moment, that's absolutely true.

Ms. NORTON. Does GSA have any standards or criteria that it expects to be met before deciding what tool should be used in acquiring a project?

Ms. STASCH. Are you talking about financing tools or something like that?

Ms. NORTON. First of all, if somebody needs space, yes, you've got to decide how to finance it. So you're faced with an agency that needs space. Do you sit around a table and simply decide that, or are there some ready-made standards that you use to measure how you should proceed to acquire space?

Mr. FISCHER. We have a series of requirements that we go through after we validate that there's an absolute need for the space. That requires present value analysis over a longer period of time and a look both short-term and long-term at all of the possible economic alternatives. That analysis is actually underpinned by some OMB circulars that lay out the kind of procedural steps we go through, and they ultimately end up in the 11(b) submission that we make through OMB to the Congress.

Ms. NORTON. Are you aware that the Federal Triangle Building was built as a lease-purchase?

Ms. STASCH. Yes.

Ms. NORTON. Do you believe that building could ever have been built had lease-purchase not been used?

Ms. STASCH. You mean because of competing budgetary requirements?

Ms. NORTON. Because of whatever you know about what you do in GSA.

Ms. STASCH. No. I think that lease-purchase was the right answer for a building of that magnitude.

Ms. NORTON. Ms. Stasch, I know of your extensive and excellent experience in the private sector. Do budget rules of the kind we have been discussing this morning exist among private developers?

Ms. STASCH. Not in the same way at all, no.

Ms. NORTON. No developer can be as large as the Federal Government, but there are developers in the business of making the same kinds of decisions that the Government makes. Generally, how do these developers go about making those decisions?

Ms. STASCH. It's a rare developer that has ready cash, and so outright purchase of cash is not an option in the typical private sector portfolio of ready, available alternatives. So clearly a developer will take a look at what are the most advantageous ways to do this, will take a look at whether public financing, whether private financing, whether short-term construction financing taken out by a long-term lender.

Ms. NORTON. How about long-term leasing?

Ms. STASCH. Long-term leasing? Well, the developer is not in the same situation.

Ms. NORTON. The developer may not be, but I'm asking about the use of long-term leasing in the private sector.

Ms. STASCH. Savvy large tenants typically, in a time of leverage, like to negotiate equity or a purchase option.

Ms. NORTON. GSA has a building fund, and this year the committee was advised that three-quarters of the budget of the building fund went for courthouses. The primary reason that these courthouses won out over others in equal need of space may have been that courts have to be housed in Government-owned space. That being the case in this budget climate, this committee foresees a situation where you could build nothing but courthouses. The committee took action. It cut the budget for courthouses by 10 percent, and it promised to do more of the same rather than be forced in a position where we are building luxurious courthouses and leaving other agencies in sometimes unspeakable conditions.

Do you believe that there is a better approach to the building fund, both in terms of priorities and in terms of the way courts and their amenities are financed?

Mr. FISCHER. The practical effect, I think, of the building fund is that through the rents that we charge, we raise this money which is then available for construction. My own personal view, not having been at GSA but a year and a half or so, is that those requirements to purchase or construct should compete on a more open and level playing field with other uses of the money, and that the fund should instead be aimed at operating and fully maintaining all of the owned assets that we have, and any new construction is done that way. But that is my personal view, as a Federal financial manager.

Ms. NORTON. Have you any view concerning what the committee brought out in testimony about the lack of controls on courts and the amenities that they may order apparently for themselves, with little oversight from you or OMB?

Ms. STASCH. I think you may be aware of the joint effort between the Administrative Office of the Courts and GSA to obtain a pretty hard-edge private sector perspective on court costs. It's my personal opinion that there are two components of perhaps greater cost than needs to be in the Court Building Program, and one is definitely, in my view, perhaps a more complex and intense management process by GSA. The other is specification for courthouses that come from both the Court Design Guide and from GSA's own published standards for buildings and finishes.

I think that what we've discovered in the early feedback from this panel is that we have become overly prescriptive in our specifications, and we are not permitting the private sector to bring to each project their best knowledge, the flexibility of alternate systems and approaches, and that this can have a significant percentage impact on costs.

Ms. NORTON. So the private sector or whoever has been building courts has had a boondoggle, because they've been able to bring the very best to the courts, including individualized showers and other amenities unheard of in other Federal buildings.

Ms. STASCH. I think that while there may be some of those things, I think that those probably are not the greater component of increases costs. The greater component of increased costs, I be-

lieve, is in inconsistent application across the country of standards—as I said, overly rigid prescription of systems, an interpretation amongst some design and construction professionals that we were looking across the board at 50-year requirements, the desire to have a facility that had a 50-year life. Perhaps that's an appropriate standard for the structure of a building; not an appropriate standard perhaps for a fire life safety system, which would be functionally obsolete within 10 or 15 years. So we may be paying a significant premium for that sort of thing, which is not necessarily a component of excess amenities.

We want to make sure that every single court project, those that are under the time out in review as well, benefits from this. We are going to be recommending projected savings for each of these projects at different stages through completion of the project. Certain savings can be achieved at the design stage, larger savings. A smaller percentage of savings can be achieved if the project is already ready to go out to bid. But we anticipate that savings can be achieved at every stage from the amount that is estimated in the project as authorized.

Ms. NORTON. So you're put in a position where there needs to be greater flexibility for the private sector to bring its full range of tools into court construction at the same time that there's a need for oversight to be put into place so that individual judges or the judges of the Administrative Conference do not in effect intimidate the GSA from exercising the kind of oversight that only GSA can exercise. We had a situation where the courts were asking to be out from under GSA altogether last year.

Ms. STASCH. I'm familiar with that.

Ms. NORTON. I'd like to know the status of GSA's work on getting housing for EPA and DOT.

Ms. STASCH. I think I need to defer to Administrator Johnson on that. He has indicated that the complete housing program for EPA is a very high priority. We're under the same pressure from EPA, and we anticipate coming forward with that complete housing plan very shortly.

Ms. NORTON. We had expected you to come forward with it by now. When are we going to see a housing plan?

Ms. STASCH. I would say within a week or so.

Ms. NORTON. GSA has done a remarkable job on the Southeast Federal Center. In a real sense, it envisioned ahead of the NPR how to make a Federal building fully functional for the Government, getting past the notion that employees have a fixed sense of where they want to be located in a particular area by essentially saying, "This is all our land, and let's build it so that agencies will want to be here; therefore, you won't have the buildings empty some of the time, and you won't have morale problems that come from employees who only want to be in one particular spot." It's a model project, at least on paper. I'd like to know the exact status of it at this time.

Ms. STASCH. I'm not at liberty to discuss the exact status, because I don't know the exact status. Because of prior associations, I am recused from discussion or knowledge of that project.

Ms. NORTON. Perhaps Mr. Fischer can comment.

Mr. FISCHER. I don't have detailed knowledge, Congresswoman Norton. I think we'd just have to get you that for the record. I have not visited that project in several months personally.

[Information provided follows:]

At the time of the hearing, the Southeast Federal Center development was under review by the Administrator's "Time-Out and Review" process and no decision had been rendered. Since that time, the development was approved to proceed, and, on December 7, 1993, GSA awarded the Southeast Federal Center developer/manager contract to Federal Center Associated, Inc.

On December 17, 1993, a protest of the contract award was filed with the General Accounting Office (GAO) by an unsuccessful offeror in the contract competition, South Capitol Landing, Inc. GSA has determined not to proceed with the development until GAO renders a decision, which is expected in late June, 1994.

The programmatic requirements for the new General Services Administration Headquarters building at the Southeast Federal Center are being studied within the agency to reflect the mandatory right sizing of the agency and other organizational changes which may take place.

In addition, GSA continues in its efforts to attract Federal tenants for future phases of the Southeast Federal Center development.

Ms. NORTON. The development contract has not been let, has it?

Mr. FISCHER. It's my understanding that the developer/manager contract has not been awarded. That's correct.

Ms. NORTON. I am concerned, because we expected that larger contract to be awarded at least a year ago. Congress has approved it, there's been money appropriated, and thus we are mystified as to why it could take this long. The dates for submissions have closed long ago, as I understand it, and we don't understand what is holding this project up. What happens after people do what you tell them to do for a whole year or more and then we get silence after that and no movement while the cost of doing everything continues to go up?

Ms. STASCH. We'll get that information for you on that.

[Information provided follows:]

The General Services Administration's National Capital Region had selected a successful offeror and was prepared to award the Southeast Federal Center developer/manager contract in June, 1993. The contract award was postponed while undergoing the "Time-Out and Review" process.

On December 7, 1993, GSA awarded the Southeast Federal Center developer/manager contract to Federal Center Associates, Inc. On December 17, 1993, a protest of the contract award was filed with the General Accounting Office (GAO) by an unsuccessful offeror in the contract competition, South Capitol Landing, Inc. GSA has determined not to proceed with the development until GAO renders a decision, which is expected in late June, 1994.

Ms. NORTON. I'd appreciate that information, as the Chairman said, within the next 30 days.

Thank you, Mr. Chairman.

Mr. TRAFICANT. Ms. Johnson?

Ms. JOHNSON of Texas. Thank you, Mr. Chairman.

I am pleased to see that we are holding this hearing and am very grateful to you and other sponsors. I'm a co-sponsor for this legislation, because I think it's much needed, and I'm delighted that one of my constituents has come to testify.

I'd like to ask if you have the current ratios of leased/owned buildings. I might have missed that testimony. I'm sorry.

Mr. FISCHER. I have actual numbers of 1990, which was 58 percent Government-owned, and our projection is that in 1995, given

what's to come, that that percentage will be 53 percent Government-owned, and the remainder of 47 percent would be leased.

Ms. JOHNSON of Texas. And your goal is to perhaps own more, or do you have a goal?

Ms. STASCH. Analysis had been done in the past that pointed to perhaps a more rational ratio would be 70 percent owned to 30 percent leased, still leaving the opportunity for flexibility that was discussed earlier. Then you get to terminating a lease, downsizing a particular agency, or other circumstances where being tied to an asset may not be the most advantageous situation.

Ms. JOHNSON of Texas. There was recently a very handsome building constructed in Dallas, the Federal Reserve Bank, and I assume that they had outgrown the space where it is and is now empty, and I think you have that building for sale.

Ms. STASCH. It's my understanding the Federal Reserve has their own authority.

Ms. JOHNSON of Texas. Okay. So it's not——

Ms. STASCH. It's not in our inventory or within our purview.

Ms. JOHNSON of Texas. Thank you. When I first contacted GSA upon my arrival here in Congress about the possibility of purchasing some buildings rather than continuing to lease, I was told that you could possibly exercise that authority without this bill. Of course, the gentleman is not here, but if that is the case, do you feel that you get broader leeway and encouragement or are just validating what you're doing?

Ms. STASCH. Was the comment about a specific building, or was it a more general comment that we could have that authority?

Ms. JOHNSON of Texas. It was not so specific. It was general, but it did have to do with Dallas.

Mr. FISCHER. I think my recollection of that is that were we to have a full budget ability, maybe the ability to write our own ticket, we could then go and purchase a building, but we have not requested funds for building purchases for the last several years, and so effectively that was not an option, although theoretically it would be if the budget were made available to acquire one.

Ms. JOHNSON of Texas. Not any particular one, but the possibility of considering one or more. So you're saying, then, that not this bill, but whether or not the appropriation is in place?

Mr. FISCHER. Yes. If the appropriation were available to us to go into, say, Dallas and to acquire a building, then we would have everything we needed once we had the money to go do that.

Ms. JOHNSON of Texas. In some of your leases—and you do have the authority to do lease-purchase—how often do you consider that arrangement in some of the large regional office cities?

Mr. FISCHER. Well, we periodically look at the entire market and try to determine where there are options. I think the recommendations of the National Performance Review and the steps that Administrator Johnson and Deputy Administrator Stasch is going to intensify and professionalize so that there will be a lot more intensive look at that. But there are periodic surveys made of areas to determine what the market looks like and what our opportunities would be.

Ms. JOHNSON of Texas. So many opportunities for using those options are in place. It's a matter of whether you set your goal to move more in that direction.

Mr. FISCHER. Yes, and they come up hurriedly. The example I cited earlier, the Atrium Building in Herndon, arose as a result of a confluence of market forces where that opportunity arose, we were unable to take advantage of it, somebody else seized it, bought the building from the lender, and we're still in it leasing.

Ms. JOHNSON of Texas. So you mean your leases move rather slowly with GSA? Is it more cumbersome, takes more time or something?

Ms. STASCH. Actually, that's almost the subject of an entirely different hearing. [Laughter.]

Ms. JOHNSON of Texas. Well, I can tell you that when I was looking for office space, I particularly wanted to lease from an RTC property or somewhere that I thought the money would be going to the Government, and I was repeatedly told that it would take three to six months to get that to come to closure, and I didn't have that kind of time. So maybe we do need to look at all it takes to get there.

Thank you very much.

Mr. TRAFICANT. Thank you.

It's come to our attention—Julia, you know this by the many visits you've made—that Administrator Johnson and yourself personally have made over 60 visits to this Congress, to the respective Members. We're going to put that on the record. We appreciate that kind of involvement. We welcome your advice and counsel, and our staff wants to work again, hopefully, with your staff, and we are available as elected officials. We appreciate what you've done. Your testimony has been frank, and we encourage you to keep doing the best you can. I think in the long run it will help the taxpayers.

So I thank you for your testimony.

Ms. STASCH. Thank you very much.

Mr. TRAFICANT. We're going to deviate from our schedule here. We were to have the GAO on next, the GAO has done a report, and we find that report to be very, very helpful to the country, to this subcommittee, and we thought that we would bring in our two private sector representatives so GAO could also hear what they have to say. I'm sure they'd stick around anyway, but we would accommodate our two private sector real estate witnesses.

The first is Mr. J. McDonald Williams, known as Don, who is a constituent of Ms. Johnson, and he's the President and Chief Executive Officer of Trammell Crow Company, Dallas, Texas; and Mr. Michael T. Shehadi, Group Senior Vice President and Department Head, Charles E. Smith Companies, Arlington, Virginia. I'm not so sure if that's Mr. Wolf's district, but I see he has a very able staff person back there, so I assume it is.

So whichever order you'd like to go forward, we'll leave it up to the two of you. So whoever would want to go forward, and we appreciate your being here, and we welcome you being here, and we're anxious to hear what you have to say.

TESTIMONY OF J. McDONALD WILLIAMS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRAMMELL CROW COMPANY, DALLAS, TEXAS; AND MICHAEL T. SHEHADI, GROUP SENIOR VICE PRESIDENT CHARLES E. SMITH MANAGEMENT, INC., ARLINGTON, VA

Mr. WILLIAMS. Thank you, Mr. Chairman. We appreciate the opportunity to be here and visit before this committee and particularly before Congresswoman Johnson on this committee, being from Dallas. We appreciate that.

I want to express support for H.R. 2680. It seems to us in the private sector that the GSA should have all of the ownership and leasing and financing options available to it to provide cost-effective housing for governmental agencies. My written testimony, if I may, Mr. Chairman, is submitted, and my oral testimony will be different from that.

Mr. TRAFICANT. Without objection, your prepared statement will appear in the record.

Mr. WILLIAMS. Thank you. These should include all the options, including leasing, capital leasing, lease-purchase, development, various kinds of market financing alternatives. Whatever's best cost, best for the project at that point in time, in our judgment, ought to be available to the GSA. The current constraints of the budget scoring process, in our view, tend to distort the economic decision-making and do not necessarily produce the best results, either financially or in other cases, for the actual users of the space.

What I'd like to do, if I may, is to put this in a little broader context of where we think real estate usage is going to go and what that's going to mean for the Government and GSA policy in the future, not necessarily today, but in the next five to ten years. The commitments we make today will have a great bearing on the freedom, flexibility, and efficiency of Government operations five, ten, fifteen, twenty years from now.

In the private sector, we've seen from all of our companies who are users—the actual physical users of real estate in this country—profound change in their use patterns. All businesses that are customers of ours—and we're in 70 markets around the United States and seven foreign countries, so we see quite a bit of it—all of these users are focused obsessively on change. What is their core business? What are their core competencies? What are their core business strategies? When they come to terms with that, they tend to look at everything else and consider shedding it, outsourcing it, outtasking it, some other way to get it done more effectively that doesn't necessarily mean doing it themselves or in-house—this obsession with getting their costs down and their flexibility up.

The Governor of Texas asked me to co-chair the Japan-U.S. Southern Conference, which was held in Dallas last week, and there were 71 Japanese business executives in Dallas for this three-day conference. The Japanese are very concerned that what's going on with this sort of reinventing business in America is enabling American businesses to leap-frog ahead of them in terms of their leanness and in terms of their strategic focus and cost structures to be a major advantage over the Japanese business in the next decade or two ahead, and this is what we see happening amongst our customers. So 10 years ago, they didn't care what

their occupancy cost was in real estate; today they're obsessed with lowering that and increasing their flexibility for their changing workforce.

So it seems to me that when you think about that from a Government standpoint, clearly, with very few exceptions, real estate is not a core business of Government. I mean, maybe the National Parks, and I noticed the plaque back here of George Washington talked about lighthouses, buoys, beacons, and public peers, and the monuments here, but except for some aspects like that, real estate is not a core business for the U.S. Government and ought not to be thought of in that way. It supports the mission of Government, which is the delivery of services, whatever they may be, to the citizens or national security or whatever else that mission may be.

I think as you think about changing the way you deal with real estate over time, it should take that factor into account. Whether the reinventing focus now or the National Performance Review system will lead to major changes in the near term, those changes will occur. It is inevitable that Government will go through the same kinds of changes in dealing with real estate uses that those of us in the private sector have had to go through.

What we have seen from our customers—that is, the users out there of real estate—are a couple of core things that I alluded to earlier. One is cost, lowest effective cost, and, of course, that has to be over the life of the actual use of the asset itself. The second core theme is flexibility. I mean, what we see amongst our customers is the reluctance and caution about locking in long-term commitments either to facilities or to leases in many cases, because what they know that's fundamental is their business will change. It will not be today the same as it will be five or ten or fifteen years from now, and that ability to have flexibility. So as Government changes its mission, organization, and focus—and I think that's a large part of what this and perhaps successive administrations are all about—that's inevitably going to change its real estate delivery system. Changes in communications, changes in information patterns, telecommunications, information generation, the networking of information and people, the use of information.

We have customers, for example, major office building users, who have said five years ago they had 250 square feet per person, and they've reprogrammed that to 125 square feet per person. They have the concept of virtual office or just-in-time office where four or five people will actually use the same desk, and their telephone will be programmed for answering services, their computers programmed for their business line. There's even a little drawer over here that when you're there that one week of the month, you pull out your kids' pictures and put them out there, and then you put them back.

But this kind of change in use is going to come to the Government as well. Perhaps five or ten years from now, these hearings will be done electronically and not in this facility, around the country. So I think it's important that the Government keep in mind these kind of changing use patterns as they make these long-term commitments to own or lease or whatever.

Our workforce is changing in our own company now with the number of working parents, and particularly single parents, with

the demand for flexible hours, and we're working with that with both men and women parents in our company, and more and more work being able to done at home or in some access point or node away from the office itself. We expect that materially to increase. All of us use now part-time help or help that's available as we're able to add new revenue or grow a customer, which then contracts when we lose that revenue or lost that customer. So there's an enormous core of part-time business people out there who won't be occupying full-time office space. So this kind of flexibility is crucial as our workforce character and patterns change over time.

So we are strong supporters in the private sector of what we heard in the testimony this morning of GSA, to take this longer-term look toward the planning strategies for the use of real estate over time for the Government. This ought to include both this focus on cost and focus on flexibility, and, of course, it has to be adjusted to current market conditions. At the moment, for example, it may be highly efficacious to lease long-term or short-term or to do a lease-purchase arrangement, because rents and acquisition of properties are so much below their occupancy cost of new buildings or their replacement cost. That's a market condition that's here today that GSA ought to be able to take advantage of.

That market condition probably won't be here five years from now, so they ought to have this array of planning and financing options that they can make the best use of with a long-term plan in mind, which I understand they're doing, according to the testimony this morning and was recommended by the National Performance Review, and yet take into account current market conditions which enable them to do better than market deals over a long term.

So I would say in general—in our own testimony, we've made some more specific suggestions about ways to do that, but that in general GSA should have this flexibility of financing tools and acquisition versus lease decisions, but it ought to be in the context of a dramatically and radically changing workforce, office space, and other real estate use requirements, which will be the reality of the next 10 or 20 or 30 years in the life of America.

Thank you.

Mr. TRAFICANT. Thank you. I think you assume, though, that the Government will be smart enough to make those adaptations that the private sector will. We appreciate your testimony. We'll hold any questions for you, Mr. Williams, and we'll defer to Mr. Shehadi.

Mr. Shehadi?

Mr. SHEHADI. Mr. Chairman, I have a six-minute prepared statement. If you don't mind, I'd like to read that.

Mr. TRAFICANT. Go right ahead.

Mr. SHEHADI. Thank you for the opportunity to offer my comments on H.R. 2680. By way of background, the Charles E. Smith Companies is a Washington-based full-service real estate company, and we have developed and currently lease and manage over 40 million square feet of both commercial and residential property. The Smith Companies currently are the single largest landlord to the Federal Government. We currently lease more than 5 million square feet of commercial space to the Federal Government, housing literally dozens of Federal agencies, including the Department

of the Navy, the Patent and Trademark Office, the FCC, Social Security, and many, many more.

Through our experience working with the Federal Government over several decades, we have developed a deep understanding of GSA real estate practices and how they work. Mr. Chairman, we support the intent of H.R. 2680 and believe that in cases where the Federal Government has elected to gain an ownership interest in real estate, they should have, as the private sector does, the ability to utilize lease-purchase and capital lease arrangements as options.

There are many factors which affect Federal Government decisions whether to lease or own facilities to house Federal operations. In many cases, long-term leases of facilities are the most attractive alternative. Over the years, prior to the current scoring rules, the GSA had entered into many very attractive long-term transactions. One particular lease that comes to mind was in 1969 GSA leased 750,000 square feet in Crystal City, principally for the Navy, for a 20-year lease at a rate of about $5 a square foot. At that time, it was a good deal for us, the landlord, and GSA got the last laugh, because in the end, with all the coming inflation that was to occur, they locked in a very favorable lease deal for 20 years.

I believe it is important to note, however, that our support for GSA having lease-purchase authority should not be considered an endorsement of massive Federal ownership of facilities. A dramatic increase in Federal ownership would have substantial unintended consequences on many important sectors of the economy. Local governments, for example, would be deprived of real estate tax revenues. Local economies could also be affected.

For the committee's benefit, I would like to briefly discuss one example which I believe effectively illustrates how extension of lease-purchase authority to the GSA could be useful. For nearly two decades, the Naval Systems Command has been housed in leased space in Crystal City. The Navy originally located in Crystal City for several reasons. One of the primary reasons was the close proximity of Crystal City to the Pentagon. Crystal City represented a nearly perfect fit for the Navy, as it is literally walking distance from the Pentagon, and each day for nearly two decades thousands of Navy personnel have traveled between the Crystal City buildings and the Pentagon itself. A location any distance from the Pentagon would have made these trips difficult and would have resulted in considerable unproductive travel time.

The Crystal City location also offered enough space to house together each of the Naval Systems Commands, and this collocation of commands represented a significant efficiency for the Federal Government, since the commands require frequent interaction with each other. In June of this year, the Defense Base Closure and Realignment Commission voted that the Naval Systems Commands in Crystal City be relocated to Government-owned space in several locations, including White Oak, Maryland; Patuxent River, Maryland; Mechanicsburg, Pennsylvania; and Memphis, Tennessee. The Navy estimates that it will have to expend up front approximately $440 million over the next few years. Our estimates of these costs are $550 million, and we believe they could be much, much more. The majority of these costs are to build and rehabilitate commercial office space for these commands.

These upfront costs are real and they're unavoidable and will be expended in the next few fiscal years if the proposed realignment goes forward. Because it is new construction, this is why it has to be scored up front. These dollars will be scored up front.

In an effort to ensure the Navy's presence in Crystal City, we got together with the other owners and developed an attractive proposal designed to provide the Navy with ownership of leased facilities that they are currently in. These proposals would provide the Navy with ownership of several of the buildings housing these commands for far less than the upfront costs associated with the realignment. In other words, for less than what they spend by their own estimates to move, the Navy could gain ownership of the buildings that they're in currently in Crystal City and still maintain all the benefits which originally attracted them there in the first place.

GSA reviewed these proposals when they were first submitted and termed them, and I quote, "in keeping with current real estate markets; therefore, seriously tendered and of potential interest to us." Also, during the Base Closure Commission deliberations, Commissioner Corder noted that while the Commission did not have the authority to consider the offers, they appeared to be attractive.

One of the concerns we've heard about our proposals, however, is that it would be difficult, given the current scoring rules, to obtain funding to accomplish the purchase of these buildings through GSA. The requirement that the costs be scored up front for both a straight purchase as well as a lease-purchase makes such an acquisition difficult for the GSA. This, Mr. Chairman, is an excellent example of where the authority to use a lease-purchase arrangement could result in a workable solution, with benefits to the American taxpayer, the Federal agency involved, and the local community. The buildings could be purchased with virtually no upfront costs to the Federal Treasury.

Mr. Chairman, I would also like to briefly discuss the capital lease alternative. We believe that the scoring rules for capital leases should be changed in the same manner as is being proposed for lease purchases. GSA should have the ability to enter into long-term lease arrangements without purchase, where necessary and where appropriate, where it can be advantageous. Many factors, including local economies and real estate markets, can make this capital lease transaction more advantageous.

For example, a long-term capital lease reduces the amount of administrative work GSA must undertake to meet its clients' needs. In addition, long-term lease arrangements create an incentive for landlords to invest in improvements and upgrades which make the lease more attractive to the Federal Government. Long-term leases are also heavily favored by lending institutions, and that would then provide the landlords with the necessary capital to make such improvements and upgrades to benefit the Federal user agency who's occupying the space.

Full building users, as the Federal Government typically is, generally stay in buildings for longer than five years. Our experience is that full building private tenants almost never limit their leases to five years, as the GSA has been forced to do over the last few years. Full building private users exercise their buying power and

negotiate for building upgrades and long-term leases at competitive rates. The scoring rules which score such lease costs up front artificially hinder the Government's ability to take advantage of such lease arrangements which would otherwise be cost effective.

Mr. Chairman, in conclusion, we agree that GSA should have the ability to enter into long-term leases and have lease-purchase authority in its arsenal of options. While we do not believe this tool should be used for a massive program of acquiring Federal ownership of real estate, we do believe that in the situations where Federal ownership is clearly the best available option, lease-purchases can be a useful tool for acquiring real property to the benefit of the Federal Government and the American taxpayer.

Thank you for the opportunity to testify, and I'll be happy to answer any questions.

Ms. NORTON [assuming chair]. We appreciate the testimony of both of you.

Mr. Shehadi, not to worry. The notion that there will be a rush of money available to purchase buildings for the Federal Government seems not to be even remotely close. We have none in the budget submitted by this Administration.

Mr. Chairman?

Mr. TRAFICANT [resuming chair]. The gentlewoman from D.C. can continue.

Ms. NORTON. Thank you, Mr. Chairman.

Do I understand you to say that the Navy deal in Crystal City simply could not be done and that that does not continue to be an option of any kind?

Mr. SHEHADI. No. We believe it's still an option, and we are proceeding to propose alternatives for the purchase of several buildings in Crystal City. To facilitate that, one of the mechanisms that would be available for GSA to purchase them would be a lease-purchase alternative. That way there's no outlays in the current budget or in the next few years' budgets, which would be the case if they move and build new buildings, but they would be able to build it over a 20-year period or whatever and purchase them at the end of a long period of time.

Ms. NORTON. And the GSA indicated that it thought it could get that authority?

Mr. SHEHADI. Well, no. They say that the scoring rules require them to score that up front, and there's no money in the GSA's budget to buy those buildings up front.

Ms. NORTON. So the deal is not moving ahead.

Mr. SHEHADI. It's not yet, but we're still making the proposals to the Navy and GSA for them to continue pushing for that alternative. But the scoring rules hinder that process.

Ms. NORTON. How do you evaluate GSA as a competitor or as a partner, as the case may be, in the market in which you do business? I know you do much in this area.

Mr. SHEHADI. We find them to be—they're our largest client. We're delighted to do business with them. They take care of a lot of needs in the Washington area——

Ms. NORTON. Mr. Shehadi, I obviously was not looking for an advertisement for GSA. [Laughter.]

They speak for themselves very well in that regard. This committee is interested in its practices and how those practices compare with the practices used by the private sector and whether those practices facilitate doing business with the private sector.

Mr. SHEHADI. Well, this scoring rule situation is something that is obviously hindering them from acting like the private industry does. The commercial market in the private sector has every opportunity to avail themselves of every alternative and option available. The scoring rule is a perfect example of how they're hindered from acting like the commercial marketplace would act.

Ms. NORTON. Mr. Williams, I was interested, in light of the number of prospectuses we receive, in your testimony on page 4 where you suggest using a housing occupancy plan rather than a prospectus approach. Would you elaborate on the difference?

Mr. WILLIAMS. I don't know all the details of the prospectus process, but I think, again, the principle is customer in, user in, anticipating changing needs and requirements over a period of time as best as possible, and, of course, we all know that changes fundamentally. So I think having that constant user in, market in, flexibility built in as needs change of the user over time is what we were thinking here, rather than there's a one-shot deal here for a long term as if the user of that space is likely to remain constant for a long term. So that's the principle that we were trying to articulate.

Ms. NORTON. Thank you very much.

Thank you, Mr. Chairman.

Mr. TRAFICANT. Ms. Johnson?

Ms. JOHNSON of Texas. Thank you, Mr. Chairman.

I just want to ask one question, and that is, when or how are the scoring rules changed or updated? Do you remember the last time they've been updated?

Mr. SHEHADI. I believe it was in 1990. Prior to 1990 is the condition that I think the Commission wants to revert to.

Ms. JOHNSON of Texas. Thank you.

Mr. TRAFICANT. I'm just going to pose one little scenario to both of you, having seen your testimony, knowing that you deal with that flux, that changing atmosphere in the marketplace. If you don't do it, you go bankrupt. Uncle Sam just goes further into debt. There's no end. There's no terminal activity to such debt at some point.

What we've heard today and what you've heard is the GSA saying they don't have all the options, and everybody knows they don't have all the options. We've heard OMB saying, "Well, maybe they don't have all the options, but we're not for this change that would affect those options." We've also seen pretty much frustration here from Members that believe that the oversight of GSA and other entities involved with real estate activity has gone from the Congress to some bureaucracy of the Federal Government. How this thing got all screwed up, I don't know.

Let me ask you this. Since OMB doesn't want to change, and since we have uncovered in the testimony today so many other dimensions that speak to a mess, how could you envision GSA as an independent agency that would have a board of directors that would consist of both public and private sector individuals such as

yourselves, that would advise and would operate similar to maybe the FAA, that would have direct oversight by the Congress of the United States of America? We can get analyses from all these other bureaus of the Government, but they would not affect policy change, as is turned out now.

Do you envision a possibility of maybe incorporating the private sector's initiative, strategy, ideas, intelligence, acumen and to join forces with it in that type of a scenario? Do you think that would be good for our country?

Mr. WILLIAMS. I think that's one way that it could be done. I think the principle that you're onto, Mr. Chairman, is a sound principle, and that is to not think about real estate or the Government as a core business, but as a service, and there are many ways to deliver that service. GSA, frankly, is one of the better agencies over time in doing that, but it is constrained for political and a lot of other reasons that make it very difficult—budgetary and so on. So I think that's one way that it could be done. It could also simplify its core tasks and outtask a lot of the things that it does into the marketplace out there, with, again, the objective as what is best for the user.

One of the dilemmas is that the mindset of the users is going to have to change over time, too. The fact that everybody and every agency has got to be in one big, monumental building, that's what corporate America thought 10 or 15 years ago, and it nearly drove corporate America—that kind of thinking process of monumental buildings housing all your people at one place nearly destroyed American business.

I think that that mindset has to change, and so it could be done through an independent agency of the sort you have. That could work. I think it could be done with a different kind of a strategy and focus and organization that included some alliances with private sector folks or otherwise, but some way to refocus that mission so it's truly service- and customer-driven instead of always financially, politically, or personal-ambition-of-agency-leader-driven.

Mr. TRAFICANT. Mr. Shehadi?

Mr. SHEHADI. Mr. Chairman, we'd be delighted to work with you and your staff on any initiative or in any way to help formulate that plan or some similar plan. The Government is in a very unique position with 118 million square feet of leased space currently. No one in the world has 118 million square feet of leased space, and it has a special role to play in how that works with the private sector, and facilitating that is something that I think would be well served by some dialogue and communication with those that know how the system works.

It is a very unique process. GSA has several unique situations they have to deal with. They measure space differently, they obviously have certain rules about how they can operate in the lease arena and the purchase arena, and I think a partnership to help facilitate the best course of action would be useful.

Mr. TRAFICANT. Let me say this. Part of the reason that the two of you are here is because you are considered to be two of the top private sector individuals that could help this subcommittee promulgate a plan and policy for our country to improve the way we do business. We think of you and regard you in the highest of es-

teem. We want you to stay in contact with us, and we will stay in contact with you.

We just did not want your testimony; we want your participation to help us make this better. We realize that not all elected officials have the specific expertise needed in some of the areas in which they have jurisdiction, and it is good sense to involve those people that are participants and players of a significant nature in that particular marketplace to help advise us.

So our staff will be in continuous contact with you, and we want, in addition, on the strength of what you've heard here today, any suggestions and ideas that can be incorporated into the programs that we're trying to undertake and the policies we're trying to effect.

So we want to thank you for your testimony very much.

We call on Mr. L. Nye Stevens, Director of Planning and Reporting, General Government Division, GAO, Washington, D.C.

I'd like to say and I'd like to ask the staff, while Mr. Stevens is here and before our two private sector experts leave us, we'd like the staff to create and in fact effect a bill to create an independent status for the General Services Administration with a board of directors and to advise us on how to do that. We're going to see what we can do.

With that, and after hearing all this, and after doing this report that showed everybody how dumb we were and are and making us all look like fools, which we probably qualify for——

Ms. NORTON. Speak for yourself, Mr. Chairman. [Laughter.]

Mr. TRAFICANT. I accept it.

We appreciate GAO's work. We may not always like some of the things they say, but I have come to appreciate that.

I know you have two support staff here with you, Mr. Stevens, and if you would introduce them——

Mr. STEVENS. Yes. They are support in this hearing, Mr. Chairman, but they are certainly our principal experts on budget issues. Paul Posner is the Director of the Budget Issues Group, and David Mathiasen is the Assistant to the Comptroller General, with a major portfolio in that area.

Mr. TRAFICANT. Well, go right ahead.

TESTIMONY OF L. NYE STEVENS, DIRECTOR OF PLANNING AND REPORTING, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY PAUL POSNER, DIRECTOR, BUDGET ISSUES GROUP, AND DAVID MATHIASEN, ASSISTANT TO THE COMPTROLLER GENERAL

Mr. STEVENS. It's late in the day, Mr. Chairman, and our reports have been referred to often enough that I certainly don't think I need to recount them orally. I would submit our written statement for the record, if there's no objection.

Certainly this subcommittee has no need to be convinced of our central thesis that more ownership of Federal real estate does pay benefits in the long term and in the short term. A lot of our work, which is listed in the back of that statement, talks about obstacles to this ownership, though. One of them is the design of the Federal buildings fund, which doesn't provide very well for capital invest-

ment, and the proportion of that fund that is going into short-term operating leases is steadily growing.

Another obstacle, we think, is GSA's lack of a long-term strategic plan that would integrate all of these various options, whether you're talking about purchase, lease-purchases, or straight leases. This lack of perspective has really forced them into a short-term, transaction-by-transaction focus that this committee is well aware of.

Now, in our discussions with GSA over these issues, which have gone on for many years, of course, an underlying assertion has always been that resource constraints enforced by the budget scorekeeping rules consistently drive them toward short-term leases, even when ownership, by their accounting and our checking of their accounting, shows superior advantages both in the long term and the short term. Although the operating leases are technically cancellable and, therefore, can be scored one year at a time, they very often turn out to be, over the long run, much more costly, because in practice they're permanent arrangements.

The report that's been referred to in 1989 did show a stream of about $12 billion in cost advantages over a 30-year period, or $1.3 billion in present value, and GSA readily accepted that. They didn't really argue with us on it, and I think Ms. Stasch even endorsed it today. But they pointed out that as a practical matter, it really didn't make any difference, because they're driven to recommending leasing to Congress just because they lack the upfront cash in the building fund to finance these projects.

That's the same reason we've gotten for the lack of any purchases on the open market of buildings. We did a report showing that had been cost beneficial, but I don't believe they've done any in the last five years, even though we did recommend that that was a good way to house Federal employees. We did a report on property that the RTC holds and the FDIC, some empty, vacant office buildings, and again they said, "We can't take advantage of those bargain properties because we lack the cash up front that would be required to score their entire value right away."

Now, having said that, however, it's not a problem that has an easy solution. Although we agree that the budget scoring rules often cause perverse consequences, for reasons that Mr. Mathiasen and Mr. Posner can explain better than I, it doesn't follow that changing them to promote lease-purchases is necessarily the appropriate countermeasure. I think our four principal reasons for this are, as Ms. Rivlin said, that it will promote what is a more expensive option than outright purchases. Lease-purchases are indeed more expensive than outright Government purchases, because ultimately they are coming from borrowed funds, and borrowing at the Government's rate is less expensive than borrowing at the private sector rate.

A second reason is that we believe it will weaken scrutiny of individual projects and allow Congress essentially to back into their funding one year at a time and to offload the greatest proportion of the cost onto future Congresses. In our experience, once choices are made to appear cheaper than they really are, there's a strong likelihood that long- term spending will be higher as a result.

The fourth reason is the possible effects on the system of budget control in general. If public buildings can gain exceptions from rules requiring upfront scoring, there's really no rational reason or no firm reason why other programs that also offer future benefits shouldn't claim the same preferential treatment.

In view of these concerns, we would suggest that consideration be given to revisiting the scoring of the operating lease option. That's where the real distortion lies. In principle, those leases that are perceived by all sides as this long-term Federal commitment—certainly, property for the DOT headquarters is in that category—ought to be scored in a way that is comparable to direct Federal ownership, even if leasing is the option chosen, and that would remove any scoring advantage they now have.

In conclusion, Mr. Chairman, this is not an easy problem to resolve, because it involves making choices, either implicitly or explicitly, among competing priorities for very limited Federal budgetary resources. Certainly, there are very legitimate space acquisition needs of the Government, and you've got lots of reports from us that show that. But that's not all that's at stake. As long as total discretionary spending is controlled by tight caps, greater spending on public buildings will necessarily be accompanied by reduced spending somewhere else in the budget, and the decision about whether to spend on a public building versus something else is properly a matter of political priorities to be decided by the Congress.

The current scoring rules require GSA to mount a very effective argument to justify the provision of full funding for purchase option. It's a difficult argument to make, but it's one that all spending programs face today.

Mr. Chairman, we'll be glad to respond to any questions you have.

Mr. TRAFICANT. Some of the concerns that you brought forward, though, are dependent upon the behavior of the Congress and some of the activities that Congress may undertake, and it brings those ramifications and concerns to the budget process. One thing we know for sure is under the system in which we operate now, we're losing. Forget all the fancy economic analysis and think-tank work, we're losing, not winning. We have a real problem. We have micromanagement by different agencies. We have a lot of fingers in the pie with a lot of ulterior reasons, both political and management in perspective. The bottom line is that nothing is being done the most effective way as far as real estate and the activities of our Government.

Now, I also hear GAO saying, "Well, if you do this, maybe this wouldn't be bad for public buildings and rental space and work space, but why should maybe that apparatus have such an option, and then we have the Pentagon that comes forward, and then we have all these other groups are coming forward." Well, so what? And the Congress could say they don't come forward.

But I think more of a response, before we move on, GAO has documented a problem which we know exists. You've taken what we feel, what we know, what we see, and you have documented into construct language that indicts everyone associated with this process and cries for change.

Before I move on, if the GSA—General Services Administration—was placed as an independent entity, reporting to Congress through a board of directors consisting of both public and private sector people that can help to manage the flux and flow in the nature of the marketplace activity, it could take advantage of the gluts on the market now, the fiasco that Ms. Johnson talked about—the RTC availability and all the exposure we have there—and they could even be financed with the tremendous revenue base from these long-term lease debacles. Do you see that as a possible option that maybe could put our real estate activity more firmly on solid ground?

Mr. STEVENS. We haven't really considered that as far as GSA is concerned, Mr. Chairman. I do know that GAO, as a matter of principle, believes direct accountability to Congress is to be sought, and when you talk about a board of directors of public and private owners, I think we'd look very carefully at the kind of control those individuals had and ask the question whether that might not be something of a mitigation of what would be a more appropriate Congressional direction.

Mr. TRAFICANT. But that direct link to an independent agency—say it resolves some of those issues—do you see that as a possible way of dealing directly with the issues?

Mr. STEVENS. It's a possible way, yes, Mr. Chairman.

Mr. TRAFICANT. I'll defer to the gentlewoman from the District.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Stevens, I appreciate your testimony, especially its candor, which I think for the first time has touched upon the reasons these scoring rules were put in place in the first place. They obviously have had some unintended consequences and perhaps some very much intended consequences.

Mr. STEVENS. Yes, perverse ones. We'll certainly agree to that.

Ms. NORTON. I think it's incumbent upon those of us who have been concerned with the economic impact of these scoring rules on real estate to in fact bear in mind those consequences and see if we can deal with the original purposes that led to the scoring rules.

I was surprised, though, at your testimony that you believe that if there was an exception for public buildings, in effect we might see the collapse of the whole house of cards. The reason I am surprised at that is that we are, after all, talking about real estate. It's those who, for other kinds of purchases, horned in on a practice that was almost always exclusively used for real estate, and who, it seems to me, ought to be the object of your concern.

Here Congress has put real estate in a position that is outside of the rules and the practices used everywhere, so the exception is the natural exception. I don't understand why if we said to those who buy battleships, "You will not be able to use the scoring that is used for real estate," that there would be some collapse of the entire system. In other words, if we put real estate back where it always has been, I don't understand why that should disturb the original purposes that led Congress to do these scoring rules, where they scooped up everybody because they saw so much misuse of the scoring, and said, "We'll fix you." As a consequence, we have Federal real estate being put at a decided disadvantage over its competitors in the private sector.

Mr. STEVENS. I'll let my colleagues help me on this. A good case can be made for the beneficial effects of real estate, but other investments, too. It's not unique in that respect. There are other things the Government could do now that would certainly be beneficial in the long run, and it is certainly different from what the private sector does.

Mr. POSNER. I would just add that there are certain activities that you could imagine lease-purchases being used once they appear cheaper in the budget, but, moreover, there is quite a bit of groundswell in the Congress and elsewhere to possibly implement a capital budget that would score lumpy things, like the purchase of dams for infrastructure—rather than scoring them up front, score them on a depreciated basis in the budget. That kind of thing, while we have supported the notion that investment is something valuable that the Federal Government needs to consider more than it does in the budget, we have concerns about where this all leads ultimately. It has that slippery slope quality, and that's—

Ms. NORTON. It does, except real estate has this wonderful quality of being an asset that generates income very often, and not a lot of capital assets have that same characteristic. The capital budget solution, which, by the way, is kind of tossed around and is one I'm very interested in, because I'm on the Joint Committee to Reorganize the Congress, nevertheless leaves us in the same position. We've got to define what a capital asset is, and what will be depreciated, so when the problem simply is framed in another context, we don't still have the problem we face here today.

Mr. POSNER. Yes. Any time you change the way you book costs in the budget, you provide tremendous temptations to broaden that definition of what goes in that category.

Ms. NORTON. Again, if we could figure out in a rational way what the exception should be and that the exception would save the Government money when we have this $12 billion problem and we have scandals breaking out all over. They're not real scandals, but they're made to appear that way, and people come back and lay it at our doorstep. We cannot take the position that it appears OMB can take, which is, "I don't know what to do." We have to say we're going to do something, and in trying to do something, I hope we don't do something that, in turn, has unintended consequences.

The Congress is in no position to let loose a lot of money. I think we'd have a lot of cooperation on that score if we can figure out whether to go with exceptions or to go in some other way.

I take it, Mr. Stevens, that in your discussion of operating leases, you do agree that operating leases ought not be put at a disadvantage.

Mr. STEVENS. They are now advantaged, and we think more thought should be given—

Ms. NORTON. I'm sorry. Lease-purchase should not be put at a disadvantage when measured against operating leases.

Mr. STEVENS. When measured against that other option, yes. But right now it is operating leases that have the budget advantage and that are being favored and growing, with long-term very detrimental consequences, particularly for permanent functions.

Ms. NORTON. Yes. That's the situation we're put in, and, of course, this committee is very close to it, because we sit and receive prospectuses.

Thank you very much, Mr. Chairman.

Mr. TRAFICANT. GSA has a public building fund. The Pentagon has no public building fund to build an airplane or a submarine, and we've gotten off to where we're lumping the significant workplace activity of our Government in areas where we should not be. I think it's time to get back to the picture. Historically, this Congress, this Government, has had an apparatus in place to provide work space for its employees—as the private sector has mentioned, to dispatch a service. We don't make a product. We provide a service.

Now, this bill we knew would not be acceptable, but we also believe that anything we came with wouldn't be acceptable either, so what we're saying with this bill is, if not this, what? Because Congress in 1990 didn't decide to take on a loser piece of legislation, and we have. Whatever the intent of this thing was, if it was known what it was going to produce, we wouldn't have spent the time to change anything. We know that.

So we're probably going to look very carefully at this, and if we can't come up with something better, then we're going to employ a Bogart mechanism to make this happen. Bogart is for Humphrey Bogart. [Laughter.]

Mr. TRAFICANT. But if we can come up with something better, we want GAO's advice and counsel. We think you've analyzed the problem very well. We appreciate the work you do for us. I don't know who you answer to, I don't know anything about you—I hope you're not CIA—[Laughter.]

Mr. TRAFICANT.—But we appreciate your report, and we appreciate your advice and counsel. We want it on this, because we plan to fashion and promulgate a plan of action to address the problem. We're losing.

So if there's no further business, I want to thank you for being here, and this meeting is adjourned.

[Whereupon, at 11:50 a.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

TESTIMONY OF ALICE RIVLIN
DEPUTY DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

SUBCOMMITTEE ON
PUBLIC BUILDINGS AND GROUNDS,
COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION

U.S. HOUSE OF REPRESENTATIVES

HEARING ON H.R. 2680

October 28, 1993

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear today to discuss H.R. 2680, a bill to amend the Public Buildings Act of 1959 concerning the calculation of public building transactions.

This bill proposes to change the way transactions involving purchase, lease-purchase, or lease of a public building are calculated in the budget to follow the rules in effect prior to fiscal year 1991. The effect of this change would be to exempt these transactions for public buildings from the scoring rules that accompany the Budget Enforcement Act of 1990.

In my remarks I will focus on three areas: the purpose of the scoring rules, risks of changing the scoring rules, and procedures to ensure adequate and sound investment in fixed assets.

Purpose of the Scoring Rules

All of us in the Government seek to minimize the cost to the taxpayer of the acquisition of the services of fixed assets -- in short, to save the taxpayers money. The "best deal" for the taxpayers is the one that costs the least over the useful life of the asset, taking into account all of the payments we must make to acquire, maintain, and dispose of it, and the time value of money.

The only way to ensure least-cost acquisition of fixed assets is first to analyze each proposed acquisition on the basis of need, and then to consider various possible means of acquisition. If we accept every proposed acquisition without critical, central review, we will in at least some instances acquire assets that are of lower priority in the long run. And if we refuse to consider various means of acquisition, we will in at least some instances pay more than necessary.

The current budget scoring rules minimize the cost to the taxpayers -- though taken alone, no scoring rules can ensure it. The asset acquisition process will never be run solely by budget scoring rules.

New scoring rules for lease purchases and other capital leases were outlined in the conference report to the Budget Enforcement Act of 1990 and implemented by OMB instructions. Before 1991, the costs of all leases and lease purchases that were exempted by statute from the Anti-deficiency Act were scored year-by-year as cash was paid against the lease. In contrast, outright purchases were scored in full in the first year. When budget decisions were made, lease purchases appeared cheaper than outright purchases because only a small part of the total budget authority and outlays over the lease contract -- and in some cases nothing -- was scored up front, compared with the full price of an outright purchase. The proposed bill would revert to this pre-1991 system -- so that lease purchases would be scored over time, while outright purchases would be scored up front.

It is important to understand that lease purchase is never the least-cost means of acquisition. This is because lease purchase is a financing arrangement that involves implicit borrowing by the private owner of the asset. Because the Federal government can always borrow at lower cost than any private party, private borrowing will always be more costly to the government.

In other words, changing the budget scoring rules would encourage the use of a means of asset acquisition that is never the best. What is worse, changing the budget scoring rules disadvantages outright purchase -- which is always superior to lease purchase. So changing the scoring rules, as H.R. 2680 would do, ensures that the taxpayer does not get the "best deal."

The problem in asset acquisition is twofold. While many agencies say that they have insufficient funds for the acquisition of fixed assets, and often identify the budget scoring rules as the reason, those same agencies also say that they have insufficient funds for their operating expenses -- and at the same time, the Federal government is running an enormous and destructive budget deficit. The fundamental problem, in other words, is simply that we do not have sufficient resources.

Another problem is that agencies often do not choose the most efficient means of acquisition, even though it is available under current scoring rules. While the major deterrent to outright purchase of assets is alleged to be the requirement to provide up-front budget authority, substantial sums of budget authority are left unused in every year under the current budget rules; in fiscal year 1994, for example, the current estimate is about $14 billion. If we simply applied that budget authority to

the acquisition of needed assets, we could eliminate any backlog of needed fixed assets in just a few years -- at the lowest possible cost to the taxpayer.

For all of these reasons, changing the budget scoring rules would not achieve the least-cost acquisition of the services of fixed assets.

Risks of Changing the Scoring Rules

Changing the budget scoring rules would entail considerable difficulty and risks.

First, the scoring rules can be changed only by joint determination of OMB and the six Committees of the Congress with jurisdiction over the budget process (as stated in the Conference Report of the 1990 Budget Enforcement Act). The Administration and Congress have just completed a marathon negotiation over the Omnibus Budget Reconciliation Act of 1993. I do not believe either the Congress or the Administration, or for that matter the American public, wants us to reopen this issue.

Furthermore, the Budget Committees wrote the scoring rules, and we believe still support them. This bill proposes to exempt public buildings from the provisions of the 1990 Budget Enforcement Act. I suspect that the Budget Committees (and much of the rest of the Congress) would see this as an attempt to circumvent the deficit reduction and budget discipline that was just negotiated. Many would see this exemption from the scoring rules as an opportunity to attempt to expand spending, despite the negotiated spending caps. Although the bill restricts scoring changes to public buildings, there would be a temptation to apply new rules to all durable commodities and other long-term investments in tangible assets.

Finally, the Budget Enforcement Act requires OMB to adjust the discretionary caps for changes in concepts and definitions. Changing the scoring rules would be viewed as a change in concepts and require a cap adjustment. OMB adjusted the caps upward in the first Preview Report to account for the change in the scoring rules for leases. If the rules are changed back to a pre-BEA basis, OMB would be required to reduce the caps, thereby making the caps even more constraining.

Procedures to Ensure Adequate and Sound Investment in Fixed Assets

With respect to public buildings, I recognize that many believe that we are under-investing in the construction or purchase of public buildings. To address this issue we are committed to work with the Committee and the General Services Administration to improve the budget choices respecting the

acquisition of fixed assets within the current scoring rules.

We have indicated to GSA that we will work together to address every instance where the cost of needed assets is alleged to be increased by the scoring rules, and find ways to fund those acquisitions within the current scoring rules and spending caps. While we may not be able to acquire every needed asset in the first year, we expect to be able to eliminate any backlog of need for fixed assets -- using the least-cost method of acquisition -- over the course of this Administration. As a result, there will be a permanent reduction of outlays and deficits.

In addition, the National Performance Review recommended that the Federal government establish a process to analyze and plan the acquisition of long-term fixed assets. This new process would be incorporated into the existing budget process. Its purpose would be to ensure that sufficient resources are allocated to acquire fixed assets at the lowest possible full lifetime cost to the taxpayer -- in particular, through direct purchase -- while avoiding any budgetary bias against long-term investment.

We expect to establish a new process of analysis and long-range planning as recommended by the National Performance Review. This will compare the alternative ways in which particular Federal services can be provided in search of the greatest efficiency. Long-term plans for needed maintenance and replacement will be developed.

The process will be implemented as soon as possible (as part of the 1996 budget formulation process). The review will evaluate Federal investments not only in the context of individual agency budgets, as is traditional, but also by comparing the investments in one agency with investments in other agencies and by analyzing the relationship of investments to operating costs. Agencies will be required to establish five-year plans for capital investment, updated and moved forward every year, which will be reflected in their budget requests. Such a plan will reflect the Administration's commitment to long-term investment, will encourage the least-cost method of meeting needs, and will provide more assurance that needed investments will be funded.

Explicit attention to investments in the budget review process will assure that there is no budgetary bias against investment, within the current budget authority and outlay caps. For example, unused budget authority will be made available so that needed fixed assets can be acquired by the most economical means.

Conclusion

In sum, we do not support changing the scoring rules or exempting public buildings from the rules. We will work with the Committee, GSA, and other agencies to ensure that needed Federal investments in fixed assets are included in the budget.

Mr. Chairman, thank you again for allowing me to appear before you today. I would be pleased to answer any questions you and the other Subcommittee members might have at this time.

The Greater Washington Board of Trade
A Regional Chamber of Commerce
for the District of Columbia, Northern Virginia and Suburban Maryland

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STATEMENT OF

MICHAEL T. SHEHADI
CHARLES E. SMITH MANAGEMENT INC.

BEFORE THE

HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

OCTOBER 28, 1993

Mr. Chairman, members of the subcommittee, I am Michael T. Shehadi, Group Senior Vice President of Charles E. Smith Management Inc. I appreciate the opportunity to offer my comments on H.R. 2680, a bill to amend the Public Buildings Act of 1959 concerning the calculation of public building transactions.

By way of background, the Charles E. Smith Cos. is a Washington-based full-service real estate company. We have developed and currently lease and manage over 40 million square feet of commercial and residential property.

The Smith Cos. currently are the single largest landlord to the federal government. We currently lease more than 5 million square feet of commercial space to the federal government, housing literally dozens of federal agencies, including the Department of the Navy, Patent and Trademark Office, FCC, EPA and Social Security, among many others. Through our experience working with the federal government over several decades, we have developed a deep understanding of GSA real estate policies and how they work.

Mr. Chairman, we support the intent of H.R. 2680 and believe that in cases where the federal government has elected to gain an ownership interest in real estate, they should have, as the private sector does, the ability to utilize lease-purchase and capital-lease arrangements as options.

Background

As we understand it, H.R. 2680 is intended to alter the scoring rules used by the federal government in calculating the impact of public buildings transactions. Under current scoring rules, developed as part of the Budget Enforcement Act of 1990, all lease-purchases and capital leases of capital assets are scored up front. In other words, the total of all payments over the life of a lease-purchase agreement is scored against budget authority in the first year. Capital leases are similarly scored.

Requiring lease-purchase agreements to be scored up front has a significant impact on the Congressional budgetary process, since the Congressional Appropriations Committees have strict limits on budget authority each year. As a result, these scoring rules, rather than the economics of a particular situation, often drive GSA real estate decisions. In many cases this has limited GSA's ability to enter into long-term leases as well as acquire an interest in real estate when such actions would be in the best

interests of local communities, the federal government and the American taxpayer.

Lease Versus Purchase

There are many factors which affect federal government decisions whether to lease or own facilties to house federal operations. In many cases long-term leases of facilities are the most attractive alternative. Over the years, prior to the current scoring rules, the GSA had entered into many very attractive long-term lease transactions. One particular lease that comes to mind was in 1969. GSA leased 750,000 square feet in Crystal City, principally for the Navy for 20 years at a lease rate of $5 per square foot. At the time, it was a good deal for us, the landlord, but GSA got the last laugh as they locked in a very favorable lease deal for 20 years. When that lease expired and went to market, the renewal rate was approximately $20 per square foot.

GSA has developed a computer model which compares the lifecycle costs of various building alternatives to help reach a decision. There are cases, however, where GSA analysis of the lifecycle costs indicate that government ownership is the most appropriate alternative, but because of the difficulty in arranging a lease-purchase transaction, such an alternative is not a possibility. In those cases, we believe GSA should have,

as the private sector has, the ability to enter into lease-purchase arrangements.

I believe it is important to note, however, that our support for GSA having lease-purchase authority should not be considered an endorsement of massive federal ownership of facilities. A dramatic increase in federal ownership would have substantial unintended consequences on many important sectors of the economy. Local governments, for example, would be deprived real estate tax revenues. Local economies could be affected. In addition, federal ownership is not always the best option for the federal government or the American taxpayer.

Example of Potential Use of Lease-Purchase Authority

For the Committee's benefit, I would like to briefly discuss one example which I believe effectively illustrates how extension of lease-purchase authority to the GSA could be useful.

For nearly two decades, the Naval Systems Commands (NSC) have been housed in leased space in Crystal City just across the 14th Street Bridge in Arlington, Virginia. The Smith Cos. manage several of the buildings currently occupied by the Navy.

The Navy originally located in Crystal City for several reasons. One of the primary reasons was the close proximity of Crystal City to the Pentagon. Senior Navy officials have long argued that the unique nature of the work performed by the Naval

Systems Commands required the commands to be in close proximity to the Pentgon and to each other.

The facilities in Crystal City represented a nearly perfect fit for the Navy. Crystal City is literally walking distance from the Pentagon, and each day for nearly two decades thousands of Navy personnel have traveled between Crystal City and the Pentagon. These trips are a necessary part of the integration of Naval Systems Commands operations with Pentagon operations. A location any distance from the Pentagon would have made these trips difficult, and would result in considerable unproductive travel time.

The Crystal City location also offered enough space to house together each of the Naval Systems Commands. This collocation of commands represented a significant efficiency for the federal government since the commands required frequent interaction with each other.

In sum, the Crystal City locations represented an ideal location for the Naval Systems Commands.

In June of this year, the Defense Base Closure and Realignment Commission (BRAC) voted to adopt a recommendation from the Secretary of Defense that the Naval Systems Commands in Crystal City be relocated to government-owned space in several locations including Silver Spring, Maryland, Patuxent River, Maryland, Mechanicsburg, Pennsylvania, and Memphis, Tennessee.

The Commission argued in part that collocation with the Pentagon was no longer necessary because advances in communications such as fax and computer links obviated the need for many of the trips which were once required between Crystal City and the Pentagon. The Commission also maintained that the switch to government-owned space would create a net savings to the taxpayer of some $592 million over 20 years.

In order to achieve these savings, however, the Navy estimates it will have to expend upfront costs of approximately $441 million over the next several years. Our estimates of these costs are $550 million. The majority of these costs are to build and rehabilitate commercial office space for these commands. These upfront costs are real and unavoidable and will be expended in the next several years if the proposed realignment goes forward.

Having made the decision to relocate these facilities from leased space to government-owned space, we believe the government should undertake the most cost-effective approach.

In an effort to ensure the Navy's continued presence in northern Virginia, the Crystal City property owners developed an attractive proposal designed to provide the federal government with ownership of the leased facilities they are currently in. The proposals developed by the Crystal City owners would provide the Navy with ownership of several of the buildings currently

housing the Naval Systems Commands for far less than the upfront costs associated with the proposed realignment. In other words, for less than they would spend, by their own estimates, to move, the Navy could gain ownership of the buildings in Crystal City (appreciable assets) and still maintain all of the benefits which originally attracted the Navy to Crystal City. The American taxpayer would benefit as would the Navy and the local community.

GSA reviewed these proposals when they were first submitted and termed them "in keeping with current real estate markets, therefore seriously tendered and of potential interest to us." During Base Closure Commission deliberations, Commission Chairman James Courter noted that while the Commission did not have the authority to consider the offers, they appeared to be attractive.

One of the concerns we've heard about our proposals, however, is that it would be difficult, given the current scoring rules, to obtain funding to accomplish the purchase of these buildings through GSA. The requirement that the costs be scored up front for both a straight purchase or a lease-purchase makes such an acquisition difficult for GSA.

This, Mr. Chairman, is an excellent example of where the authority to use a lease-purchase arrangement could result in a workable solution with benefits to the American taxpayer, the federal agency involved, and the local community.

Lease-purchase would allow the federal government to gain ownership of these facilities at a substantial savings over the

current proposed relocation. New scoring rules would allow the decision to purchase these buildings to be made on the basis of economics rather than based on the artificial barriers posed by the scoring rules.

Capital Leases

Mr. Chairman, I would also like to briefly discuss the capital-lease alternative. Under a capital lease, both budget authority and outlays are currently scored in the same manner as privately financed lease-purchase transactions. We believe that the scoring rules for capital leases should be changed in the same manner as is being proposed for lease purchase. In other words, budget authority should be scored in each year that annual rental payments are made.

In considering proposed changes to GSA real estate policies, it is important to keep in mind the unique position GSA fills in many communities and real estate markets. As I noted earlier, we believe it would be counter productive to embark on a federal program to convert GSA's 118 million square feet of lease space into government-owned space. Such action could have several unintended effects including reducing local government tax revenues, and negatively impacting local economies.

GSA should have the ability to enter into long-term lease arrangements where such leases can be obtained at advantageous

rental rates. Many factors, including local economies and real estate markets, can make a capital lease advantageous for the federal government and the American taxpayer.

Capital-lease arrangements also offer several advantages to GSA. For example, a long-term capital lease reduces the amount of administrative work GSA must undertake to meet its clients' needs. In addition, long-term lease arrangements create an incentive for landlords to invest in improvements and upgrades which make the space more attractive to the federal government. Long-term leases are also heavily favored by lending institutions. They provide landlords with the capital necessary to make such improvements and upgrades to benefit the federal user agencies occupying the space.

Full building users, as the federal government typically is, generally stay in buildings for longer than five years. Our experience is that full building private tenants almost never limit their leases to five years like GSA has been forced to over the last three years. Full building private users exercise their buying power and negotiate for building upgrades and long-term leases at competitive rates. Scoring rules, which score such lease costs up front, artifically hinder the government's ability to take advantage of such lease arrangements which would otherwise be cost effective.

Conclusion

Mr. Chairman, in sum, we agree that GSA should have the ability to enter into long-term leases and have lease-purchase authority in its arsenal of options. While we do not believe this tool should be used for a massive program of acquiring federal ownership of real estate, we do believe that in situations where federal ownership is clearly the best available option, lease-purchase can be a useful tool for acquiring real property for the benefit of the federal government and the American taxpayer. We also believe that federal real estate policy would be improved by amending current scoring rules which unnecessarily and artificially discourage the government from entering into capital leases.

Thank you again for the opportunity to testify this morning. I would be happy to answer any questions you may have.

United States General Accounting Office

GAO

Testimony

Before the Committee on Public Works and Transportation
Subcommittee on Public Buildings and Grounds
House of Representatives

Release on Delivery
Expected at
8:30 a.m. EDT
Thursday
October 28, 1993

PUBLIC BUILDINGS

Budget Scorekeeping Prompts Difficult Decisions

Statement of L. Nye Stevens
Director of Planning and Reporting
General Government Division

GAO/T-GGD-94-43

Mr. Chairman and Members of the Subcommittee:

We welcome this opportunity to discuss the budget implications of alternative ways of financing the acquisition of office space for federal employees. As you know, we have reported and testified many times in recent years to this Subcommittee, its Senate counterpart, and the General Services Administration's (GSA) oversight committees on the need for and long-term benefits of greater investment in federal office buildings. At the end of this statement is attached a listing of many of these testimonies and reports. I will not summarize them here because our dialogue with this Subcommittee indicates that it fully understands and supports the argument that greater investment in modern, safe, and technologically adaptable space for the federal workforce can pay dividends in efficiency and productivity. Your concern is with meeting this need.

Obstacles to Investment

Our work has shown the existence of a substantial number of obstacles to capital investment in federal real property. The design of the Federal Buildings Fund, in which agency contributions are unrelated to the costs of long-term federal asset replacement, is one such obstacle, as is the increasing proportion of the fund going to fund short-term lease obligations which, unlike most capital investment, cannot be deferred. Another has been periodic agency rent caps which have cost the

Fund billions of dollars over the years, though efforts have been made to compensate for this shortfall in recent years. An extremely important obstacle, which we stressed in our December 1992 Transition Report on GSA[1], has been GSA's lack of a strategic asset management concept for its present and future real estate inventory. This would require GSA to develop a long-term capital investment plan comparing the relative cost-effectiveness of building construction, purchase, lease, lease-purchase, modernization and disposal so that decisionmakers can choose the options that offer the greatest return on investment. The lack of such a plan has forced GSA into a short-term, transaction-by-transaction focus on individual prospectus projects without any long-term context around which to form a policy consensus within the Administration and with Congress.

In our sustained discussions with GSA over these issues, one final obstacle has constantly reemerged as underlying many if not all of the others. This is the issue, which can also be found in each of our reports and testimonies, of resource constraints enforced by the budget scorekeeping rules that consistently drive GSA toward short-term leases even when ownership clearly offers superior short-term and long-term cost advantages.

During the past decade and a half huge deficits have increased the pressures faced in the annual appropriations process.

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[1]Transition Series: General Services Issues (GAO/OCG-93-28TR)

Indeed, it was such pressures that led to the short sighted policy I mentioned earlier of putting caps on agency rental payments. These pressures have made it difficult for Congress to pursue the most cost-effective way of acquiring buildings, which is through outright purchase. Overall budgetary caps, first agreed to in 1987, were later legislated in the Budget Enforcement Act (BEA). Partly in response to such pressures, GSA has turned more to leases as a way of meeting its most urgent needs.

Of course leases make sense when office space may be needed for a short or uncertain period of time. However, they are a costly alternative to ownership over the long run, particularly when the government requires special purpose facilities. In such cases, if outright purchase is not a realistic alternative, a long run lease with option to purchase would seem to be a desirable alternative from GSA's point of view. However, the scorekeeping rules that were enacted as part of the BEA require such arrangements to be treated as if they were purchases, effectively preventing GSA from taking advantage of this option.

In contrast, the rules for ordinary operating leases require only that the current year's lease costs be recognized because technically they do not commit the government to payments beyond a single year. Many such leases turn out to be more costly over the long run, however, because GSA typically (1) enters into

multiyear leases to house permanent activities of government, (2) makes annual payments over the entire lease period, (3) either renews the lease or signs a new one, and (4) indirectly pays local property taxes which are not due on properties it owns.

In December 1989 we issued a report that demonstrated conclusively the economic short-sightedness of leasing to house permanent government functions.[2] It showed that on 43 proposed leases alone GSA could save $12 billion through ownership over 30 years (a then-present value of $1.3 billion). GSA readily agreed to our analysis, but pointed out that as a practical matter it was driven to recommending leasing to Congress because it lacked the up-front cash in the Federal Buildings Fund to finance the projects. Similar reasons were advanced for GSA's failure to follow up on our recommendation that purchases of existing buildings be undertaken again because of their cost-effectiveness,[3] and for GSA's desultory pursuit of bargain office properties in the hands of the Resolution Trust Corporation.[4] The impracticality of the construction, purchase, and lease-purchase options also serves as a deterrent to GSA

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[2]FEDERAL OFFICE SPACE: Increased Ownership Would Result in Significant Savings (GAO/GGD-90-11).

[3]BUILDING PURCHASES: GSA's Program Is Successful But Better Policies and Procedures Are Needed (GAO/GGD-90-5), October, 1989.

[4]FEDERAL OFFICE SPACE: Obstacles to Purchasing Commercial Properties from RTC, FDIC, and Others (GAO/GGD-92-60), March 1992.

adopting our recommendations to improve its long-term strategic planning process.

Solution to Scorekeeping Obstacle is Not Easy

Although the budget scoring rules are often cited as an obstacle to more cost effective asset acquisition, it does not necessarily follow that changing the rules to promote lease-purchases is the appropriate countermeasure. The scoring rules were instituted to advance broader objectives involving fiscal responsibility and protecting the budget against the temptations of proposals offering short-term programmatic benefits involving longer term costs. Changes to these rules should be undertaken only after considering the specific impact on asset acquisition decisions as well as the broader implications for spending control and deficit reduction.

With regard to asset acquisition, ideally budget scorekeeping should be neutral and permit GSA to evaluate ownership or leasing options based on their relative cost effectiveness, not their relative effect on budget scorekeeping. The 1990 rules requiring up-front scoring of budget authority and outlays for lease-purchases went at least part of the way to securing a neutral playing field. It is sometimes overlooked that our 1989 report on building ownership pointed out that lease-purchase contracts (assuming private financing) are a more costly method of

acquiring government office space than government-financed purchases. Before 1990, scoring rules provided an incentive in favor of the more expensive lease-purchase option because they permitted spreading budget authority and outlays over the period of the lease and hid the true cost of the acquisitions.

The new scoring is appropriate because lease-purchases are, in effect, outright purchases. The only difference is that purchases are financed through Treasury borrowing while lease-purchases are financed through the private sector which makes them more expensive. Thus, Congress should make the same up front consideration of lease-purchase costs as it does with purchases, lest it unduly favor the more expensive lease-purchase option.

Moreover, lease purchases are a form of loan guarantee, and under credit reform, which was passed as part of the Budget Enforcement Act, guarantees are scored in terms of current economic costs. The financing for a new building under a lease purchase agreement crowds out private sector borrowing and uses up private saving just as surely as Treasury Department borrowing. If lease purchase arrangements were permitted favorable treatment it would be extremely difficult to limit their use, since modern financial markets can transform virtually any long term government contract or obligation into some type of security.

Although the up-front scoring of lease-purchases corrected one kind of bias, it introduced another bias toward operating leases. Assuming continuous government occupancy of space, these are more costly in the long run but are made to appear cheaper by recording their costs annually rather than up-front in the budget. We agree that this discrepancy distorts decisions and breaches the principle of neutrality mentioned earlier. The key question is how to resolve it in a manner that doesn't cause more problems than it solves.

One solution to this distortion is to resurrect the pre-1990 scoring of lease-purchases. It is argued that this will permit the government to take advantage of an acquisition option that is cheaper over the long run than operating leases. In an environment where nearly all discretionary spending is limited by strict budget caps on both budget authority and outlays, it is undoubtedly the case that upfront scoring can have a chilling effect on both lease-purchases and purchases. It is also true that liberalizing the scoring rules for lease-purchases will probably prompt greater use of this instrument to acquire space.

But it can also have other consequences both for building acquisition and for our system of budgetary controls which cause concern:

-- It would once again distort purchasing decisions by making a more expensive option--lease purchases--appear cheaper than a less expensive option--outright purchases.

-- It would weaken scrutiny of lease-purchase proposals by permitting Congress to essentially back in to their funding one year at a time, and to offload the greatest portion of costs on future Congresses. Requiring full up-front cost recognition provides the strongest incentives for both the Administration and Congress to think carefully about decisions committing the government to space 30 years into the future.

-- Once choices are made to appear cheaper than they really are, there is a strong likelihood that long-term spending will be higher as a result. Although lease purchases could reduce federal costs when supplanting more costly operating leases, changing their scoring might encourage their use in other situations not warranted by a comparison of a project's benefits with its full life cycle costs. Should increased outlays for buildings result over time, some other program or programs will suffer in a budgetary environment controlled by caps.

-- It could become a precedent that might well lead to a serious gap in our system of budget control. If public

buildings can gain exceptions from rules requiring upfront scoring, why not other federal programs that can also justify their costs by some future rate of return or stream of benefits? For example, a study on the Women, Infants, and Children (WIC) program suggests that almost 90 percent of its annual outlays are offset by savings to the federal government in the first year after birth. Some have advocated depreciating federal infrastructure programs in the budget as a way to recognize these programs' future benefits to the economy and to reduce the comparable bias against these kinds of programs in the budget. The point is not that these kinds of programs don't warrant increased budgetary attention or funding--on the contrary. Elsewhere, we have argued that federal investment programs that improve economic productivity should be highlighted in the budget presentation and in congressional budget resolutions.[5] But, changing the measurement of their costs in the budget understates the full costs of programs when budgetary decisions are made and will assuredly increase federal outlays for them, implicitly or explicitly reducing spending for other programs. Our system of budgetary caps has fostered many frustrated claimants for scarce federal resources; changing the rules for one set

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[5]Transition Series: Investment GAO/GGD-93-2TR, December 1992.

of claims threatens to unravel the entire system of budgetary controls.

In view of these concerns, we would suggest consideration be given to revisiting the scoring of operating leases. In principle, those leases that are perceived by all sides as long-term federal commitments ought to be scored in a way that is comparable to direct federal ownership. Applying the principle of full recognition of the long-term costs to all instruments is more likely to promote the emergence of the most cost effective alternative.

Conclusion

Mr. Chairman, resolution of this problem is not easy because it involves making choices--either implicitly or explicitly--among competing priorities for very limited federal budgetary resources. Legitimate space acquisition needs of the government are at stake. But that's not all that is at stake. As long as total discretionary spending is controlled by tight caps, greater spending on public buildings will necessarily be accompanied by reduced spending on other programs in the budget. The decision about whether to increase funding for public buildings at the expense of other programs is properly a political decision for Congress to make. Current scoring rules require GSA to mount an effective argument justifying provision of full funding for

purchase options--a difficult argument to make in the current budgetary environment, but one faced by all spending programs today.

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This concludes my prepared statement, Mr. Chairman. My colleagues and I would be pleased to respond to questions.

RELATED GAO PRODUCTS

Federal Real Property: Key Acquisition and Management Obstacles (GAO/T-GGD-93-42, July 27, 1993).

Environmental Protection Agency: Plans in Limbo for Consolidated Headquarters Space (GAO/GGD-93-84, April 19, 1993).

Federal Buildings Fund Limitations (GAO/GGD-93-34R, April 5, 1993).

Transition Series: General Services Issues (GAO/OCG-93-28TR, Dec. 1992).

Federal Office Space: Obstacles to Purchasing Commercial Properties From RTC, FDIC, and Others (GAO/GGD-92-60, Mar. 31, 1992).

Real Property Management Issues Facing GSA and Congress (GAO/T-GGD-92-4, Oct. 30, 1991).

GSA: A Central Management Agency Needing Comprehensive Congressional Oversight (GAO/T-GGD-92-3, Oct. 29, 1991).

Long-Term Neglect of Federal Building Needs (GAO/T-GGD-91-64, Aug. 1, 1991).

Federal Buildings: Actions Needed to Prevent Further Deterioration and Obsolescence (GAO/GGD-91-57, May 13, 1991).

Facilities Location Policy: GSA Should Propose a More Consistent and Businesslike Approach (GAO/GGD-90-109, Sept. 28, 1990).

The Disinvestment in Federal Office Space (GAO/T-GGD-90-24, Mar. 20, 1990).

Federal Office Space: Increased Ownership Would Result in Significant Savings (GAO/GGD-90-11, Dec. 22, 1989).

Building Purchases: GSA's Program Is Successful But Better Policies and Procedures Are Needed (GAO/GGD-90-5, Oct. 31, 1989).

Public Buildings: Own or Lease? (GAO/T-GGD-89-42, Sept. 26, 1989).

United States General Accounting Office

GAO

Report to Congressional Committees

December 1989

FEDERAL OFFICE SPACE

Increased Ownership Would Result in Significant Savings

GAO/GGD-90-11

GAO United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-236280

December 22, 1989

The Honorable Daniel P. Moynihan
Chairman, Subcommittee on Water Resources,
Transportation and Infrastructure
Committee on Environment and Public Works
United States Senate

The Honorable John H. Chafee
Ranking Minority Member, Committee on
Environment and Public Works
United States Senate

The Honorable Dennis DeConcini
Chairman, Subcommittee on Treasury,
Postal Service and General Government
Committee on Appropriations
United States Senate

The Honorable Pete V. Domenici
Ranking Minority Member, Subcommittee on
Treasury, Postal Service and General Government
Committee on Appropriations
United States Senate

In an August 5, 1987, joint letter you asked us to assess the effectiveness of the General Services Administration's (GSA) effort to increase the proportion of government-owned office space as part of your request that we review GSA's plans to mitigate the budgetary impact of lease cost growth. This report presents the results of our review of that effort.

We are sending copies of this report to the Administrator of GSA, the Director of the Office of Management and Budget, and other interested parties. Copies of this report will be made available to others upon request.

This report was prepared under the direction of L. Nye Stevens, Director, Government Business Operations Issues, who may be reached on (202) 275-8676 if you or your staff have any questions. Other major contributors are listed in appendix VI.

Richard L. Fogel
Assistant Comptroller General

Executive Summary

Purpose

Annual costs of office space leased by the General Services Administration (GSA) are projected to rise from $1 billion in 1988 to $1.6 billion by 1994. To reduce lease costs, GSA officials have advocated increasing the proportion of government-owned space.

The Senate Committee on Environment and Public Works and the Senate Committee on Appropriations asked GAO to review the effectiveness of GSA efforts to increase the proportion of government-owned space. This report evaluates (1) whether GSA is meeting federal space needs in the most economical manner and (2) whether economic or other factors have hampered GSA's ability to minimize space costs.

Background

Since 1975, the Federal Buildings Fund (FBF) has generated revenue for acquiring and operating government-occupied space. GSA charges federal agencies rent and uses the revenue to finance its real property programs. It would like to increase the percentage of buildings owned. GSA acquires buildings in three ways: (1) direct federal construction, (2) open-market purchases under the Building Purchase Program, and (3) lease-purchase agreements. (See pp. 10-11.)

Results in Brief

The federal government could save billions of dollars by owning office space it would otherwise lease. Funding limitations and biases in the current budget structure have led GSA to lease space that would be more economical to own. These constraints have also led GSA to use costly alternative financing methods, such as lease-purchase agreements.

Congress and GSA need a better way to identify the most economical means for meeting the office space needs of federal agencies. GSA should prepare annual long-range facility plans that identify the most economical way to meet space needs and the level of capital investment needed. Additionally, GSA should prepare a capital budget for FBF that clearly distinguishes between funding needs for operating and capital expenditures.

Principal Findings

Savings From Increased Ownership

To determine potential cost savings from increased ownership, GAO analyzed 43 projects GSA could construct if sufficient capital funding were available. GAO estimates that construction would save about $12 billion over a 30-year period. The 1989 discounted present value of these savings is $1.3 billion. GAO also examined 72 proposed leases. Using GSA data, GAO estimated that, for about one-quarter of the space, leasing would have a present value cost of $116 million more than government ownership over a 30-year period. For the remaining space, leasing was either less expensive than construction or was preferable for other reasons. (See pp. 13-17.)

GSA Faces Constraints

FBF has generated little revenue for capital investment in the past. Furthermore, sufficient funding is unlikely in the future. Concerns over budget deficits have led Congress and the Office of Management and Budget (OMB) to restrict the rent GSA charges, thus reducing the amount available for capital investment. OMB no longer restricts rent, but congressional restrictions in fiscal year 1988 reduced FBF income by $52 million. However, even without rent restrictions, GSA projections indicate that FBF will fall more than $2 billion short in financing proposed construction between fiscal years 1990 and 1994. (See pp. 18-21.)

Efforts to increase ownership are also hampered by a budgetary bias against capital investment. GSA must record in 1 year's budget the total cost of a newly constructed or purchased building, but is required to record only 1 year's lease payments for a leased building. As a result, leasing appears to be less costly for the current year despite its greater long-term costs. (See pp. 21.)

Alternative Funding Is More Costly

To counteract funding limitations and budgetary bias, Congress has occasionally directed GSA to use alternative financing methods to borrow capital funds. Borrowing, as with leasing, allows only 1 year's cost to be recorded in the annual budget. However, such financing costs more than financing through FBF revenues, direct appropriations, or U.S. Treasury loans. Costs are higher because alternative financing interest rates have been from .82 to 1.89 percent above comparable Treasury borrowing rates. (See pp. 23-27.)

GSA Lacks a Long-Range Facility Plan

GSA has not developed a long-range facility plan to identify the most economical way of meeting overall space needs. GSA officials said that a long-range plan would have limited usefulness because GSA lacks sufficient funds to implement it. However, without such a plan, GSA cannot establish and maintain the level of ownership that would provide space at the lowest cost or the level of funding needed for capital investment. (See pp. 29-30.)

FBF Budget Does Not Highlight Need for Capital Investment

Like other federal agencies, GSA does not prepare a capital budget. Instead, it treats capital investments like operating expenses even though investments, unlike operating expenses, produce future benefits to the government. This budgetary approach skews GSA's decision-making effectiveness by focusing solely on annual outlays and ignoring long-term costs and benefits. (See pp. 30-31.)

GSA can improve its decision-making framework by adopting the OMB Circular A-11 recommendation that agencies separate expenditures into the categories of "operating expenses" and "capital investment." By formulating a capital budget that separated both expenses and revenues into operating and capital components, GSA could provide better information for decision-making and assume a leadership role in demonstrating the benefits of capital budgeting in government. (See pp. 31-38.)

Recommendations

GAO recommends that Congress

- approve and provide funding for cost-effective building construction projects and purchase opportunities proposed by GSA. (See p. 17.)
- require GSA to submit long-range facility plans in support of its annual budget requests. (See p. 38.)
- remove restrictions on rent paid to GSA by tenant agencies and not mandate restrictions in the future. (See p. 22.)
- refrain from authorizing costly alternative financing methods and substitute less costly capital financing methods, such as borrowing through the Treasury's Federal Financing Bank or providing direct appropriations. (See p. 27.)
- direct GSA to provide a model of the benefits of capital budgeting for the federal government. (See p. 38.)

GAO recommends that the GSA Administrator

- seek congressional approval and funding for building construction projects and purchase opportunities that represent cost-effective alternatives to leasing. (See p. 17.)
- establish a long-range facility plan using long-term ownership objectives based on needs assessments and economic analyses. (See p. 39.)
- take the first step toward a capital budget by separating expenditures in its current FBF budget into the categories of "operating expenses" and "capital investment." (See p. 39.)
- take the second step of preparing a capital budget by developing a budget that separates both expenses and revenues into operating and capital components. (See p. 39.)

Agency Comments

GSA and OMB provided comments on a draft of this report. (See apps. I and II, respectively.) OMB agreed with GAO's conclusions and recommendations and cited a joint OMB/GSA study of the Federal Buildings Fund, which had similar conclusions on many of the areas reviewed. Because the report was not available until after the audit was completed, the contents of the study are not addressed in this report.

GSA agreed with most of GAO's conclusions but disagreed that GSA lacks a long-range plan. GSA said it considers long-range trends when it formulates its budget request and that this serves the function of a long-range plan. GAO believes that a formalized long-range facility plan is still required in order to provide the information on total capital investments and potential savings that GSA and Congress need.

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Abbreviations

FBF	Federal Buildings Fund
FFB	Federal Financing Bank
GSA	General Services Administration
OMB	Office of Management and Budget
PBS	Public Buildings Service
TAPS	The Automated Prospectus System

Chapter 1

Introduction

As the federal government's landlord, the General Services Administration (GSA) provides office space for most federal agencies. In fiscal year 1988, GSA's office space inventory contained about 233 million square feet of space across the country. About 1,700 GSA-owned buildings provided roughly 60 percent of this inventory. Space obtained through approximately 5,000 leases made up the remaining 40 percent.

Concern about the mounting cost of leasing space to meet agency needs has led GSA to try to reduce leasing costs by increasing federal ownership of office buildings. GSA paid about $1 billion in fiscal year 1988 to lease space. As discussed in a previous report,[1] GSA estimates that the cost of currently leased space will rise to $1.6 billion annually by fiscal year 1994. GSA also estimates that rising demand for additional space will add approximately $400 million annually in leasing costs by 1994.

Federal Buildings Fund

GSA depended on direct congressional appropriations to meet all the costs associated with providing office space, including construction, until 1972 when Congress established the Federal Buildings Fund (FBF). After FBF became operational in 1975, direct appropriations were replaced by income from rent charged for GSA-controlled space. Under this intragovernmental revolving fund, GSA (1) charges federal agencies rent intended to be comparable to local commercial rents, (2) deposits the rental receipts in FBF, and (3) uses the revenue to operate GSA's Public Buildings Service (PBS).[2] FBF is subject to annual enactment of new obligational authority, representing congressionally imposed limitations on the availability and use of FBF revenues.

The House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works must approve FBF-financed lease and construction projects that exceed specified dollar thresholds. In November 1988, Congress increased the threshold from $500,000 to $1.5 million. GSA submits project descriptions, called prospectuses, to the committees for approval. Prospectuses include information about (1) the size and location of each project, (2) justification for proceeding with projects, and (3) economic analyses of alternative means of acquiring project space. The Office of Management and Budget

[1] Public Buildings Service: GSA's Projection of Lease Costs in the 1990s (GAO/GGD-89-55, Apr. 19, 1989).

[2] PBS's real property management and related activities include acquisition of space by purchase and leasing; maintenance, repair and alteration of facilities; related design and construction services; and overall program management

(OMB) Circular A-104 establishes the methodology for GSA economic analyses.

GSA has used FBF to acquire buildings for the federal government in three ways: federal construction, purchase of existing commercial office buildings under the Building Purchase Program, and lease-purchase agreements. Lease-purchase agreements are lease-type arrangements with developers in which the federal government owns the building at the end of the lease period.

Budgeting Alternatives

Like the rest of the federal government, GSA prepares a unified budget on a current cash basis. The federal budget treats all outlays the same whether they are for operating expenses or capital investment. However, capital investments differ from operating expenses in that they produce future benefits for the government, a factor not accounted for in the current budget.

Capital budgeting is a budget approach that is used extensively by state governments. A capital budget differs from the federal cash budget in that operating expenses, capital expenses, and revenues are separated into two components. Because a capital budget distinguishes between operating expenses and capital investments, it can help decisionmakers make more informed choices when allocating resources between short-term operating needs and long-term investment needs.

Objectives, Scope, and Methodology

The Senate Committee on Environment and Public Works and the Senate Committee on Appropriations asked us to review the effectiveness of GSA's efforts to improve the ratio of government-owned to leased space. Our objectives were to determine (1) whether GSA is meeting identified federal office space needs in the most economical manner and (2) whether economic or noneconomic factors have hampered GSA's ability to own more space. Our review also answers two specific questions asked by the Committees. First, under what conditions is it more economical or practical for the government to lease space rather than to own it? Second, are GSA's management resources adequate to evaluate and implement alternative financing techniques, including the use of debt and lease-to-own agreements?

To determine whether GSA provides space economically, we analyzed the extent to which GSA adopted the least costly alternative identified by economic analyses. We determined whether increased ownership would

save money by reviewing economic analyses for 43 construction projects GSA identified as potential construction projects for fiscal years 1991 through 1995. We obtained GSA cost data and did economic analyses of projects for which GSA analyses were not available. We did not verify the data in GSA analyses or confirm the need for the proposed 43 construction projects. To determine whether leasing was the least expensive method of providing space, we reviewed economic analyses for 72 leases, each costing $500,000 or more, that GSA proposed in calendar year 1988. For cases in which leasing was more expensive than construction, we contacted regional officials to determine why GSA chose leasing.

To identify economic and noneconomic factors hampering GSA's efforts to increase ownership of space, we analyzed GSA's ability to finance ownership and the adequacy of GSA's planning and budgeting systems to provide information needed for decision-making. We reviewed budget documents to determine whether FBF has generated sufficient funding in the past to meet ownership needs and its ability to do so in the future. We identified the costs and benefits of alternative financing techniques available to GSA. We discussed with GSA officials and knowledgeable individuals in the public and private sectors the expertise needed to assess and implement alternative financing procedures. We reviewed GSA's facility plans and procedures and discussed them with regional and headquarters officials. We determined whether GSA's budget was adequate to plan for the financing of future space needs.

We interviewed officials, obtained cost data, and reviewed documents at GSA's Washington, D.C., headquarters and at regional offices in Chicago, Fort Worth, Washington, D.C., and San Francisco. We did our work between July 1988 and May 1989 and in accordance with generally accepted government auditing standards. OMB and GSA provided written comments on a draft of this report (apps. I and II, respectively). Their comments, and our evaluation, are discussed at the end of chapters 2, 3, 4, and 5.

Increased Ownership Would Result in Cost Savings

GSA can realize significant savings by increasing the percentage of federally owned space. We estimate that constructing 43 projects GSA tentatively identified for fiscal years 1991 through 1995 would save about $12 billion over a 30-year period compared with leasing the same amount of space. The 1989 present value of these savings is about $1.3 billion. However, limited construction funding forces GSA officials to lease space that would be less expensive to own. We examined the basis for GSA decisions to enter into 72 leases that the agency submitted to Congress for approval during 1988. We found that federal construction of about one-quarter of the space would save in present value approximately $116 million in 1988 dollars. However, construction is not always preferable to leasing. For three-quarters of the space, leasing was either less expensive than construction or preferable for practical reasons, such as to meet temporary space needs while repairs are being made on permanent buildings.

Increased Ownership Would Save Money

GSA views owning office space as the most economical means of meeting long-term federal office space needs. In 1988, GSA identified 43 construction projects it would like to undertake during fiscal years 1991 through 1995 to replace space it would otherwise lease. According to GSA officials, the 43 projects do not represent all cost-effective construction projects—they represent capital projects GSA officials believe the agency would be able to undertake between fiscal years 1991 and 1995 if it were given an increased level of capital funding.

To determine the long-term potential cost savings associated with construction, we examined projected costs for the 43 projects. Economic analyses GSA prepared for 24 of the 43 projects compared the cost of ownership with the cost of leasing over a 30-year period. For the 19 projects lacking economic analyses, we obtained GSA cost data and did the analyses using the same computer program GSA uses for its economic studies. A GSA official said that GSA did not do economic analyses for these 19 projects because they are not actively under consideration for the current year.

We estimate that the cost of constructing the 43 projects would be roughly $12 billion lower than the cost of leasing the same space over a 30-year period. As shown in table 2.1, estimated cost savings amounted to $1.26 billion, measured in present value 1989 dollars, over a 30-year period. Because of the tentative nature of the data, our estimates represent only approximate cost savings associated with construction. Appendix III provides a detailed description of the methodology we used

in estimating the potential cost savings associated with increased ownership.

Table 2.1: Present Value Savings From Proposed Federal Construction Projects

Dollars in billions

Cost benefit studies	Number	Cost savings
GSA analysis	24	$0.52
GAO analysis	19	0.74
Total	**43**	**1.26**

Some Leased Space Should Be Owned

GSA officials weigh both economic and practical considerations when deciding how best to fulfill agency requests for space. However, GSA must sometimes lease space even when ownership is cheaper; while leasing costs accrue on an annual basis, construction costs must be funded up front.

To determine the extent to which GSA leases space that would be more economical to construct and own, we reviewed the 72 lease projects, each costing over $500,000 annually, that GSA proposed to Congress during 1988. Our analysis of the cost data indicated that, for 16 of the leases, ownership would save approximately $116 million in present value 1988 dollars. As shown in table 2.2, we found that leasing space was preferable to construction for the remaining 56 leases because it was either more practical or more economical.

Table 2.2: Lease Proposals GSA Submitted to Congress in 1988

	Number of leases
Construction more economical	16
Leasing more practical	23
Leasing more economical	15
Leasing only alternative	18
Total	**72**

Even though construction may be less costly over a 30-year period than leasing, GSA is often forced to choose leasing because construction funds are not available. For example, the 30-year present value cost of a lease GSA recommended in Portland, Oregon, was $6 million more expensive than construction. However, the proposal's written justification indicated that GSA could not pursue construction because GSA lacked sufficient funds.

For 23 leases, factors specific to the project, such as location requirements or duration of need, made leasing preferable even though it was more expensive than construction. Table 2.3 illustrates three instances from the leases we reviewed in which practical considerations suggest using leasing even though construction may have been less expensive.

Table 2.3: Leases in Which Practical Considerations Outweigh Higher Costs

Reason	Example
Short-term government needs	GSA proposed leasing 576,516 square feet of space to accommodate Department of Defense activities presently located in seven buildings in Northern Virginia. Under the master plan, the government would acquire an additional 1.8 million square feet of government-owned space. Leased space will be given up on a phased basis as the master plan is completed
Areas of low federal activity	GSA proposed leasing 37,240 square feet of space for the Navy's Naval Sea Systems Command Detachment in Portsmouth, New Hampshire. Leasing had a present value cost of approximately $1.6 million more than construction over a 30-year period. GSA preferred to lease this space because of the low level of federal activity in the area.
Flexibility to meet changing needs	GSA proposed leasing approximately 60,000 square feet of space for the U.S. Customs Service in Port Newark, New Jersey, where GSA already owns a building. The present value cost of leasing was $3.4 million more than the cost of construction. According to an agency official, GSA preferred leasing because constructing a small building for a single tenant in this area would reduce GSA's ability to respond to changing agency needs

For 15 of the 72 leases, leasing was more economical than construction. GSA can obtain favorable lease rates in some areas of the country because of depressed rental markets. In such cases, leasing may be less expensive over a 30-year period than construction. For example, the present value cost of constructing a new federal building to consolidate several agencies located in the Pershing Point Plaza in Atlanta, Georgia, was $26 million, while the cost for leasing the same amount of space was $24 million.

In 18 leases, GSA officials felt that they had no alternative to leasing, so they did not do economic analyses. In most of the cases, the housing need was temporary; tenant agencies needed temporary housing until renovation projects or government-owned facilities were completed. For example, GSA proposed to lease approximately 83,000 square feet of space in Washington, D.C., to provide space during the renovation of the GSA Headquarters Building. In this instance, construction was not a realistic alternative because the need for space was temporary.

Purchasing Allows Greater Savings

As discussed in our recent report,[1] purchasing a building is often cheaper than either constructing or leasing a building of equivalent space. In such instances, the government can realize even greater savings by acquiring purchased space than our cost analysis of proposed construction projects indicates.

GSA's concern about rising lease costs led it in 1984 to create a program to purchase existing office buildings. Since the program's inception in 1983, GSA has purchased 13 office buildings nationwide that have added 3.5 million square feet of government-owned space to GSA's inventory at a cost of approximately $305 million. Our review of the program found that purchasing space can be a more economical way of acquiring quality, modern office buildings in cities with a long-term federal presence than leasing or constructing equivalent space. GSA says that purchasing can be cheaper than construction for the following reasons:

- A purchased building is available for occupancy much sooner than a constructed building, which takes 4 to 6 years to build. Thus, interim housing costs for federal employees are less for purchased buildings.
- Privately constructed commercial office buildings are not subject to the same design standards and laws regulating federal construction. These standards and laws tend to make federal construction of the same space more expensive than private construction.
- GSA avoids construction cost overruns by purchasing existing buildings at a fixed price.

In addition, in depressed rental markets existing buildings may cost relatively less than new construction.

Conclusions

The federal government could realize significant cost savings if GSA owned more of the space it currently leases. We estimate that 43 proposed construction projects, if approved, would result in a 30-year savings of $12 billion compared with continued leasing of equivalent space. In addition, we found that 16 large leasing projects submitted for congressional approval in 1988 will, if equivalent space continues to be leased for the next 30 years, cost the government $116 million more in present value 1988 dollars than they would if GSA were to construct equivalent space. However, GSA was forced to choose leasing in those 16 projects because of the unavailability of construction funds.

[1] Building Purchases: GSA's Program is Successful, but Better Policies and Procedures Are Needed (GAO/GGD-90-5, Oct. 31, 1989).

Conditions sometimes make it more economical or practical for the government to lease space than to own it. Because of depressed rental markets in some localities, GSA can lease more economically than it can construct equivalent space. This report did not investigate the possibility of purchase of existing buildings in these markets. Other GAO work, however, suggests that such an approach can lead to cost savings. In other situations, leasing may be preferable because the government's need for space is either a temporary or small need, or GSA wants to be flexible so that it can meet changing conditions.

Recommendations

We recommend that, where practical, the GSA Administrator seek approval and funding for constructing or purchasing buildings that represent cost-effective alternatives to continued leasing of equivalent office space.

We further recommend that when Congress decides to approve building acquisition projects, it use the most cost-effective methods of financing.

Agency Comments

OMB concurred with our recommendations, saying that where there is a long-term need, ownership is more cost effective than leasing except where there is a depressed real estate market. GSA agreed that it can realize significant savings by increasing the percentage of federally owned space.

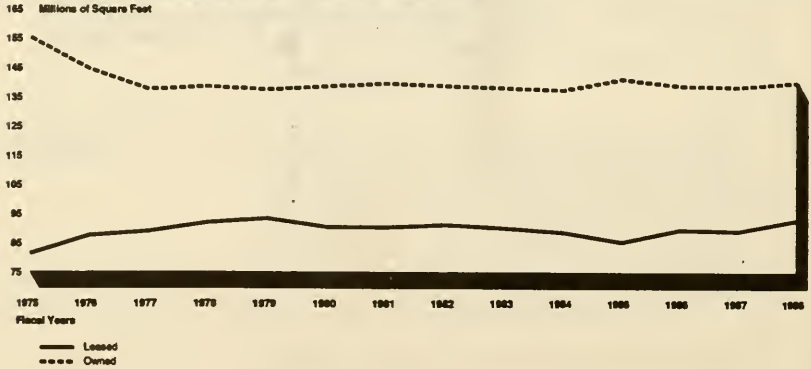
Funding and Budgeting Constraints Limit GSA's Ability to Increase Ownership

Since FBF became operational in 1975, government-owned space declined from about 66 to 60 percent of GSA's inventory; leased space increased from 34 to 40 percent. Historically, FBF has not generated sufficient funds to increase the percentage of owned space, primarily because FBF income has been artificially reduced by congressional and OMB restrictions on the amount of rent GSA could charge federal agencies. Although most rent restrictions have been lifted, GSA's fiscal year 1990 budget estimates indicate FBF will continue to fall short of cost-effective capital investment needs. In addition, the inherent bias in the budget structure against capital investment increases the difficulty of allocating funds to ownership.

GSA Ownership of Space Has Declined

GSA's total space inventory was about the same in 1988—233 million square feet—as it was in 1975, at 236 million square feet. As shown in figure 3.1, however, the amount of owned space has declined while the amount of leased space has increased since FBF became operational.

Figure 3.1: Amount of Owned and Leased Space in GSA's Inventory Since 1975



Between 1975 and 1989, GSA increased its owned-space inventory by constructing 63 buildings and by purchasing 36 buildings from the U.S. Post Office. GSA's purchase of 13 existing commercial buildings added another 3.5 million square feet of owned space during this period. However, according to a GSA official, additions to the owned inventory have been offset by GSA's removal of dilapidated or unneeded buildings from its inventory.

GSA records confirm that the total amount of owned space has dropped from 155 million square feet in 1975 to 140 million square feet in 1988, a reduction of 15 million square feet. Current projections indicate that the amount of owned space is likely to decrease by an additional 600,000 square feet by 1990. Leased space increased during this period by about 12 million square feet, or from 81 million square feet in 1975 to 93 million square feet in 1988. GSA expects that the amount of leased space will continue to increase because anticipated agency expansion cannot be met in government-owned space. Current projections show leased space rising to 99 million square feet in 1990.

Funding Constraints Have Limited Ownership

Historically, FBF has not generated sufficient revenue to support a capital investment program that would allow GSA to increase the level of ownership relative to leasing. In constant 1988 dollars, FBF has provided an average of only $97 million per year for construction and acquisition since it began operating in 1975. The inadequacy of this funding level becomes apparent when it is compared with the estimated $3 billion in capital funding required to construct 43 buildings GSA tentatively identified for fiscal years 1991 through 1995.

A major reason for FBF's past inability to generate capital investment funds is the restrictions Congress and OMB have imposed on the amount of rent GSA could charge federal agencies, which, GSA states, has occurred in 8 of the 15 years FBF has operated. As noted in a prior report,[1] Congress and OMB reduced rental rates from 1975 to 1977, because some Members of Congress and OMB officials believed the rates were too high. GSA estimates that these actions reduced FBF income by $2.2 billion in 1988 dollars. For the 5-year period between 1978 and 1982, Congress and OMB did not mandate rent reductions. Congressional staff indicated that concern over budget deficits led Congress and OMB to reinstate rent restrictions between 1983 and 1987. Limiting each agency's rent payments reduced the size of each agency's budget and,

[1] GSA's Federal Buildings Fund Fails to Meet Primary Objectives (PLRD-82-18, Dec. 11, 1981).

therefore, the size of the total federal budget. At the same time, these rent restrictions reduced FBF income and thus limited revenues available for capital investment. GSA estimates that the rent restrictions reduced FBF income by $1.3 billion in 1988 dollars between 1983 and 1987.

Funding Constraints May Continue to Limit Ownership

GSA estimates that FBF income increased by more than $200 million in fiscal year 1988 because Congress and OMB did not mandate across-the-board rent restrictions. However, Congress continues to restrict the amount of rent that some agencies pay GSA. In fiscal year 1988, Congress restricted the rents paid by the Departments of Agriculture and Transportation. GSA estimates that these restrictions reduced FBF income by $52 million.

Gramm-Rudman-Hollings deficit reduction targets may create additional pressure either to reimpose rent restrictions or to extend them to more agencies, thus sharply curtailing FBF revenues for GSA's capital investment program. Even if Congress does not extend rent restrictions, GSA's fiscal year 1990 budget projections indicate FBF will not generate sufficient revenue for needed construction and acquisition. In GSA's projections, funds devoted to construction and acquisition represent simply the amount remaining after operating expenses are met, not the level of funds GSA has identified for cost-effective construction for this 5-year period. The amounts shown in table 3.1 for GSA's projected income and expenses assume no further rent restrictions will be applied.

Table 3.1: FBF Projected Income and Expenses

Dollars in thousands

	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	Total
Income	$3,476,550	$3,476,843	$3,853,654	$3,960,854	$4,030,807	**$18,798,708**
Expenses						
Construction and acquisition	244,539	6,654	173,488	120,199	11,000	**555,880**
Repairs and alterations	438,193	550,231	624,751	618,487	596,392	**2,628,054**
Design and construction services	157,081	123,943	134,381	132,157	132,706	**680,268**
Purchase Contract payments	129,752	128,161	127,180	125,778	124,122	**634,993**
Rental of space	1,351,500	1,587,046	1,683,856	1,833,719	2,017,091	**6,473,212**
Real property operations	968,298	986,665	1,006,911	1,023,799	1,041,538	**5,027,211**
Program direction	70,520	69,297	56,615	58,331	59,244	**314,007**
Balance	$116,667	$24,846	$46,472	$48,384	$48,714	**$285,083**

As shown in table 3.1, GSA projects that FBF will generate a total of $556 million for construction and acquisition between 1990 and 1994, or an average of $111 million a year. Although this amount represents an increase in capital investment over past levels, funding will be inadequate to finance the $3 billion in new construction needs that economic analyses indicate are cost-effective; new construction needs include firm projects scheduled for 1990 and more tentative projects to be constructed in later years. If these estimates are accurate, FBF will fall more than $2 billion short in funding new construction.

Budget Bias Against Capital Investment

Another factor that has hampered GSA's ability to increase government ownership of office space is the inherent bias against capital investment built into the current budgeting process. This bias occurs because the federal budget makes no distinction between an outlay for a capital asset that produces a future stream of benefits and an outlay for current operations. For example, the budget does not show a distinction between an $85 million outlay to construct a building and a $3 million outlay to rent equivalent space for 1 year, even though the two types of outlays are fundamentally different. The difference is that a one-time investment in an owned building will provide future benefits by housing federal employees, while rental payments will have to be made year after year.

The failure of the current budget process to recognize this distinction places capital investment projects at a disadvantage during budget deliberations; these projects must compete with other means for acquiring space, such as leasing or lease-purchase, which have much lower initial costs but significantly higher long-term costs. The budgetary bias against capital investment often results in GSA and Congress selecting a lease or lease-purchase option that is treated as a recurring annual operating expense, even though this option is more costly over the long-term than direct federal construction or purchase. The presence of this bias means, in effect, that capital assets are required to have a 1-year payback to be able to compete equally with current operating expenses. Chapter 4 discusses in more detail why GSA and Congress have turned to costly alternative financing techniques to counteract funding constraints and the budget bias.

Conclusions

The cumulative effect of funding constraints is the principal reason why FBF has accumulated little money for capital investment in the past. Congressional and OMB restrictions on the rent GSA can charge tenant agencies has exacerbated the shortfall. Although OMB no longer restricts rent, Congress has continued to restrict rent for some agencies. Even without across-the-board restrictions, FBF will likely fall more than $2 billion short in financing proposed cost-effective construction between 1990 and 1994. The deficit for construction may be even greater if concern over budget deficits leads to restricted rents for more agencies in the future.

Another factor hampering GSA's capital investment is the federal budget system's bias against capital investment. GSA must record the total cost of a newly constructed or purchased building in 1 year's budget, but it records only 1 year's lease payments for a leased building. As a result of the unequal budget treatment of these options, leasing is invariably the less costly option for the current year. Chapter 5 discusses this issue along with changes needed to improve decision-making on capital investments.

Recommendations

We recommend that Congress (1) remove restrictions on rent paid to GSA by tenant agencies and (2) not mandate future restrictions.

Agency Comments

GSA and OMB concurred with our recommendations. OMB said that it and GSA will be working with Congress to propose legislation that will achieve the aim of the recommendation.

GSA Has Turned to Costly Alternative Financing Techniques

Reflecting FBF's limited resources and the budgetary bias against capital investment, Congress in recent years has directed GSA to use more costly alternative financing methods for purchase contracts and lease-purchase agreements to finance federal ownership. By using these alternative financing techniques, GSA is able to record just 1 year's mortgage costs or lease payments in a given budget year instead of each building's entire cost, thereby minimizing the budgetary impact of acquiring buildings. However, use of these techniques will result in GSA paying about $247 million more in interest from 1972 through 2019 than it would if GSA either borrowed acquisition funds directly from the U.S. Treasury or obtained appropriations. The present value of the additional cost is about $195 million in 1988 dollars. GSA will also pay an estimated $672 million extra in real estate taxes and $3 million in trustee fees because it acquired buildings through purchase contracts. The present value of these additional costs is about $1 billion in 1988 dollars. Finally, GSA also incurs other expenses for private-sector expertise and financing as a result of its use of alternative financing techniques.

Alternative Financing Techniques Used

Since 1972, GSA has used two types of alternative financing techniques to acquire office buildings: (1) purchase contract authority and (2) lease-purchase agreements. Purchase contract authority originated with the passage of the Public Buildings Amendments of 1972, which authorized GSA to enter into purchase contracts to construct a backlog of approved but unfunded projects. The expiration of GSA's purchase contract authority in 1975 coincided with FBF's first year of operation.

GSA used purchase contract authority to obtain $1.4 billion to construct 68 buildings containing about 15 million square feet of occupiable space. GSA obtained $697 million of this amount through the sale of mortgage-backed securities to investors and borrowed about $534 million through the Federal Financing Bank (FFB). The remaining $138 million was financed through mortgage loans from developers constructing some of the smaller buildings.

The second alternative financing technique involves GSA entering into long-term lease-purchase agreements in which the federal government owns the building at the end of the lease period. These agreements are authorized by Congress for individual projects. The first lease-purchase agreement was signed in February 1989 for the construction of a federal office building in Chicago, Illinois. A second agreement was signed in March 1989 for a building in Oakland, California. However, according to GSA officials, this agreement was cancelled in August 1989 because the

developer was unable to secure financing acceptable to GSA within the time frames specified in the contract. The status of this lease-purchase project was uncertain as of the end of September 1989. GSA is currently negotiating lease-purchase agreements for federal buildings in New York City and Washington, D.C. The Washington project will house the International Cultural and Trade Center and is being managed primarily by the Pennsylvania Avenue Development Corporation.

In addition to the four projects underway or in negotiation, Congress has authorized other lease-purchase agreements. As of May 31, 1989, legislation has been enacted authorizing the lease-purchase of buildings for the Department of Transportation and the Environmental Protection Agency in Washington D.C.; an Internal Revenue Service Center in Memphis, Tennessee; buildings for the Centers for Disease Control in Chamblee, Georgia; and an additional federal building in San Francisco, California (see app. IV).[1]

Alternative Financing Counteracts Funding Constraints and Budget Bias

Congress and GSA have used alternative financing to minimize the short-term budgetary impact of building acquisition. In the early 1970s, GSA used debt in the form of mortgage-backed securities to acquire buildings whose full costs did not have to be shown in the budget. Instead, GSA records only the amount of a single year's principal and interest payments in each year's budget. For example, at the end of fiscal year 1987, GSA still had over $1 billion in purchase contract debt outstanding, but it recorded only $134 million in the fiscal year 1987 budget to cover that year's debt repayments.

In a similar way, GSA has used lease-purchase agreements to minimize the short-term budgetary impact of building acquisition. To permit GSA to include only a single year's lease payments in the budget, Congress has waived the requirements of the Anti-Deficiency Act for approved lease-purchase projects.[2] Appendix IV lists the legislation passed to authorize lease-purchase projects and grant Anti-Deficiency Act waivers for them.

[1] Public Laws 100-202 and 100-440.

[2] The Anti-Deficiency Act (31 U.S.C. subsection 1341) prohibits federal officials from making or authorizing expenditures or obligations in excess of amounts available in appropriations.

Alternative Financing Costs More Than Other Options

GSA's use of mortgage-backed securities and lease-purchase agreements is more costly than other possible options, such as constructing or purchasing buildings using FBF revenues, appropriations, or Treasury money. Added costs result from GSA having to pay interest rates significantly above Treasury rates when it borrows money from investors using mortgage-backed securities or when GSA enters into lease-purchase agreements. In addition, GSA incurs costs from these alternative financing techniques that GSA would not incur if it financed acquisitions using FBF revenues, appropriations, or Treasury money. GSA incurs extra costs from the need to place the debt with private investors and from ongoing costs associated with debt service and the payment of real estate taxes.

Mortgage-Backed Securities Costs

GSA's use of mortgage-backed securities in the early 1970s was costly because of the interest rates on long-term financing and the additional costs associated with property taxes and debt placement and servicing. GSA paid interest rates on the securities ranging from 1.28 to 1.89 percent over the long-term Treasury bond rate.[3] As a result of borrowing at these interest rates, the government will incur about $214.3 million more in interest costs over the life of the securities than if GSA had borrowed from the Treasury. In present value terms, the extra costs will amount to $287.7 million in 1988 dollars (see app. V).

In addition to the higher financing costs, GSA required assistance from private sector firms to issue the $697 million in securities under the purchase contract authority. As we said in an earlier report,[4] GSA required the services of a financial advisor, special counsel, trustee, and underwriter. The cost of this assistance was $7.2 million, or just over 1 percent of the value of the securities.

GSA officials said that GSA also incurs ongoing costs for buildings financed with mortgage-backed securities that GSA would not incur if it directly purchased or constructed these buildings. These costs include

[3]The Treasury did not begin issuing 30-year bonds until 1978. Therefore, we compared the rates for the 30-year mortgage-backed securities with rates given for 20-year Treasury bonds, the longest term reported in the Federal Reserve Bulletin from 1972 through 1976.

[4]General Services Administration's Debt Management Problems With Its Participation Certificates (LCD-79-320, July 11, 1979).

an annual trustee fee and real estate taxes that the government otherwise does not have to pay for government-owned buildings.[5] GSA estimates that the cost of trustee fees will be $3 million and that real estate taxes will be $672 million over the same period. In present value terms, the costs will be about $3.8 million and $1.2 billion in 1988 dollars, respectively.

Lease-Purchase Agreement Costs

GSA's lease payments for the Chicago project will reflect long-term financing interest rates that will be .82 percent above the 30-year Treasury bond rate at the time the building is completed and accepted by GSA. GSA payments will exceed the payments on Treasury bonds of comparable maturity by about $33 million. In present value terms, GSA would have saved about $11 million in 1988 dollars if the project had been financed through the Treasury. (See app. V).

Although GSA does not expect to pay real estate taxes on lease-purchase projects, the Chicago lease-purchase agreement includes the cost of private sector expertise. The chief financial officer of the Chicago contractor estimated the cost of private sector expertise at 1 percent of the total project cost, or about $1.5 million.

Use of Private Sector Expertise

GSA, much like state and local governments, has found that it needs specialized expertise from private sector credit and real estate markets to evaluate and implement alternative financing techniques. Use of such expertise is common among state and local governments entering into similar alternative financing agreements. Public and private sector officials we contacted said that the use of special counsel, trustees, underwriters, and private developers is essential to state and local governments' abilities to issue mortgage-backed securities and to enter into lease-purchase agreements. In addition, GSA officials said that using private sector expertise is more efficient and less costly than having GSA personnel handle all the details of the long-term financing in-house.

[5]In recognition of the potential adverse effects of federal ownership on local tax bases, OMB guidance on the A-104 analysis and prospectus decisions does not allow the use of reduced state and local taxes as a factor favoring ownership.

Treasury Borrowing or Appropriations Would Cost Less Than Alternative Financing

Either borrowing from the U.S. Treasury or obtaining congressional appropriations would be a less costly long-term financing method than borrowing from private sector investors or developers. Interest rates on alternative financing techniques have ranged from .82 to 1.89 percent above comparable Treasury rates. By financing building acquisition with appropriations or Treasury borrowing, Congress would provide long-term financing at, or close to, the long-term Treasury rate.

We believe that borrowing from the Federal Financing Bank would be the preferred method for obtaining funding from the Treasury.[6] Authorizing GSA to obtain long-term funding from FFB would be in keeping with FFB's purposes, which are to coordinate federal and federally assisted loans and to ensure that such loans do not disrupt private financial markets. Furthermore, GSA officials stated in fiscal year 1989 budget hearings that, except for outright purchase using appropriated funds, borrowing from FFB was their preferred option for financing the Chicago project.

Conclusions

Congress has directed GSA to use costly alternative financing techniques to counteract FBF's limited capital investment resources and to overcome the budgetary bias against capital investment. The federal government would save significant amounts of money in acquiring buildings if FBF was supplemented with appropriations or if GSA was authorized to borrow funds from the Treasury or the Treasury's FFB.

Recommendations

We recommend that Congress stop directing GSA to use alternative financing techniques, such as lease-purchase agreements, and instead (1) substitute less costly capital financing techniques, such as borrowing through the Treasury's FFB, or (2) provide direct appropriations to FBF.

Agency Comments

In commenting on a draft of this report, OMB agreed with us that financing construction and purchases through direct appropriations would be the least-cost financing mechanism and that financing through Treasury's Federal Financing Bank would be the next best mechanism. OMB maintains, however, that neither financing mechanism is feasible given

[6]FFB, a unit of the Treasury Department, typically charges borrowers an interest rate of .125 percent above Treasury's interest rate for debts of comparable maturity. For purposes of analysis, however, the .125-percent margin above the Treasury rate is considered to be an intragovernmental transfer of funds rather than an additional cost to the federal government for borrowing from FFB.

current budget constraints, and therefore lease-purchase arrangements will continue to be used.

OMB plans to work with GSA to propose legislation to authorize GSA to enter into financing arrangements that would be less costly than those currently being used. These arrangements would be no more than 75 basis points above Treasury interest rates for debts of comparable maturity and subject to review and approval by OMB on a case-by-base basis, as well as other restrictions.

OMB's proposal to limit the cost of lease-purchase arrangements would represent a significant improvement over current conditions. We continue to believe, however, that the least costly financing arrangements would be direct appropriations or borrowing through Treasury and that these are viable options for Congress to consider.

Long-Range Planning and Capital Budgeting Can Improve Management and Decision-Making

Congress and GSA need a better framework for identifying the most economical ways of meeting federal agencies' office space needs. GSA should provide such a framework by preparing annual long-range facility plans that identify

- the most economical way to meet known federal office space needs and
- the most cost-beneficial methods for financing federal ownership of office space.

As another part of the framework, GSA should prepare a capital budget for FBF that clearly distinguishes between funding needs for operating and capital expenditures. GSA's adoption of a capital budget would highlight capital investment policy and focus attention on government ownership of assets that produce long-term benefits.

GSA Lacks Long-Range Facility Plans

GSA has not determined the optimum level of federal ownership for meeting long-term federal office space needs economically. Without long-range facility plans that balance the costs and benefits of ownership with the flexibility of leasing, GSA cannot demonstrate to Congress the cost savings associated with increased ownership.

Although GSA's strategic plans set a target, in 1988, of owning 70 percent of the total space inventory, GSA has not supported this ownership target with agencywide economic analyses or adopted it as an official agency goal. GSA does not prepare and periodically update a long-range plan that determines, through economic analyses, the appropriate level of ownership on a project-specific basis. In addition, although this ownership target sets a benchmark for capital investment, the target lacks credibility because it was established arbitrarily. Over the last decade, the target has fluctuated between 60 and 80 percent, depending on the policies of the several GSA administrators during that period. Because the target is not supported by economic analyses of specific projects, it does not necessarily represent the proportion of space that should be owned to provide space at the lowest cost.

GSA headquarters develops an annual list of capital projects each year but does not develop national long-range facility plans that identify total space needs and the most economical way of meeting them. The regional offices develop broad community surveys and submit these surveys throughout the year to GSA headquarters. The surveys identify long-range facility needs at the community level and evaluate alternative strategies to meet these needs in the most cost-effective manner.

Detailed proposals for specific current-year capital projects are also submitted to GSA headquarters each year. GSA headquarters ranks, evaluates, and develops an annual list of the current year's capital projects for its annual budget. According to GSA officials, headquarters does not consolidate the community surveys into a national long-range facility plan. Instead, it submits only the current-year capital project proposals to Congress for review and approval as part of the budget process.

We believe GSA's recent listing of 43 proposed federal construction projects for 1991 through 1995 is a step in the right direction, since it identifies national long-range facility needs on a project-specific basis. However, the list has limited use as a planning tool because GSA did not (1) submit it along with the annual budget, (2) periodically update it, (3) do economic analyses and comparisons for all projects, and (4) identify all cost-effective construction projects.

GSA officials said that limited resources precluded a detailed study of every community and suggested identifying the optimal level of ownership in each of the 30 major planning communities with periodic assessments of smaller communities. They also said that long-range facility plans would have limited usefulness because GSA lacks sufficient funds to implement them. However, without such plans, GSA cannot establish with any certainty the level of ownership that would provide space at the lowest cost. Furthermore, without long-range plans, Congress and OMB cannot determine (1) the level of funding needed for capital investment, (2) the savings that would result from such investments, and (3) the federal government's progress in meeting capital investment needs.

Problems With Current Budget Structure

Like the federal government as a whole, GSA does not currently prepare a capital budget that distinguishes between outlays for current operations and outlays for capital investments. Instead, the GSA budget, like the overall governmentwide budget, shows cash receipt and combined outlay totals. The lack of a budgetary distinction between outlays for current operations and outlays for capital investments leads to unsound policies. For example, at the federal level, the current budget structure makes it difficult for the President and Congress to apply deficit reduction strategies in a way that balances the needs for operating expenses with needs for capital investments or to recognize the different short- and long-term economic effects of the two types of spending. Similarly, at the agency level, the lack of a distinction in the budget between outlays for operating expenses and outlays for capital investments leaves

proposed capital investments at a disadvantage during budget deliberations about alternative means of acquiring space. In GSA's case, the lack of a distinction leads decisionmakers to select leasing or other alternative financing techniques that have lower initial costs even though they entail greater long-term costs.

Capital Budgeting Benefits

In a previous report, we described how the current unified federal budget would be more useful if its structure were modified to include a capital budget.[1] At the governmentwide level, we pointed out that a capital budget would (1) provide the President and Congress with a sounder basis for targeting areas for deficit reduction, (2) correct the budget bias against physical capital investments, and (3) help focus public attention on the nation's physical infrastructure needs.

GSA's adoption of a capital budget would provide Congress with a clearer picture of the federal government's investment in assets that produce long-term benefits. Capital budgets prepared by agencies throughout the federal government would also correct the bias against physical capital investments now evident in the federal unified budget. Agencies would correct the bias by distributing capital investment outlays in their budgets over the useful life of the investment. In this way, each year's cost of using the capital asset in the operating budget would be reported as capital consumption or depreciation.

A capital budget would also help focus attention on the government's future physical infrastructure needs. GSA and other federal agencies have invested billions of dollars in physical capital assets, such as buildings. Many of these buildings are deteriorating. A capital budgeting approach would help agencies deal with this deterioration by allowing agencies to depreciate capital investments and plan for building replacement.

GSA's Leadership Role in Preparing a Capital Budget

A capital budget would serve as an integral part of a decision support framework highlighting GSA capital investment policy decisions. This framework would also include GSA annual long-range facility plans and would focus attention on government ownership of assets that produce long-term benefits.

[1] Budget Issues: Restructuring the Federal Budget—the Capital Component (GAO/AFMD-89-52, Aug. 24, 1989).

Because of its unique role as the government's landlord and physical asset manager, GSA is well suited to demonstrate the benefits of capital budgeting. By providing a capital budget for FBF that clearly distinguishes between outlays for current operations and outlays for capital investments, GSA could help overcome the bias against capital investments and aid decisionmakers in making sound fiscal choices.

For example, as discussed in chapter 4, Congress has counteracted the budgetary bias by waiving the Anti-Deficiency Act for buildings financed using lease-purchase agreements. The waiver permits GSA to spread the cost of borrowing over a long time period in a manner similar to leasing. Borrowing from FFB, which is a less expensive financing method, cannot be annualized in the same way because of the requirements of the Gramm-Rudman-Hollings Act. Gramm-Rudman requires that an agency record the full amount of any funds borrowed from the FFB as an obligation in the year the agency commits to borrow funds. In a capital budget, however, lease-purchase and FFB loans would be annualized in the same way through the asset consumption charge. By spreading the costs over the life of the asset, the asset consumption charge will help overcome the budget bias to aid decisionmakers in choosing a financing method that provides space at the lowest cost.

GSA officials recognize the value of capital budgeting. GSA was among the federal agencies that responded positively to an exposure draft of our capital budgeting report. In September 1988, GSA's Acting Administrator endorsed the concept of capital budgeting, saying that it would promote sound fiscal policy and ". . . assist policymakers and the public in understanding the critical budget choices we face."

Steps Needed to Prepare a Capital Budget

To prepare a capital budget, GSA would need to separate FBF expenditures and revenues into operating and capital components. On the basis of discussions with GSA officials, we envision that this change could be made in two steps. As a relatively simple first step, GSA would separate expenditures in the current FBF budget into the categories of operating costs and capital investments and present them this way in the appendix of the President's budget. A more complex second step would entail GSA separating FBF revenues in the financing section into operating and capital components.

Separating Expenditures Into Operating and Capital Components

Table 5.1 illustrates what the FBF budget currently looks like. It has two main sections—a program section and a financing section. The program section provides the detailed cost information by program activity, while the financing section details the financing sources for funding the program activities.

Table 5.2 provides an example of what the FBF budget would look like if the program section was separated into the categories of operating costs and capital investments. Although the program section would consist of the two categories, the total obligation amount ($3,722,401) would remain the same as in table 5.1. As table 5.2 shows, the program section would now consist of an operating component ($2,737,477) and a capital component ($984,924). The financing section would remain unchanged.

The authority to make this change exists in OMB's Circular A-11. Other federal agencies, such as the Tennessee Valley Authority and the Commodity Credit Corporation, currently make this distinction in their budget presentations. GSA officials said that the separation of expenditures into two categories would be a relatively modest change for GSA to make. GSA currently groups program activities into operating and capital categories in schedules that support the FBF budget, but it does not present the information in this form in the appendix of the President's budget.

According to GSA officials, repair and alteration program activity would need attention if operating costs and capital investments were to be separated. GSA would identify the operating costs and the capital investment amounts for repair and alteration projects. In our table, we assumed that repair and alteration projects of $100,000 or more would be classified as capital investments. We used this threshold on the basis of the definition of capital assets used in our previous report.[2]

[2]Budget Issues: Capital Budgeting for the Federal Government (GAO/AFMD-88-44, July 1988) defines capital assets as physical and financial assets. Physical assets are defined as tangible assets that cost $100,000 or more and that provide benefits for more than 2 years.

Table 5.1: Current FBF Budget Program and Financing

Dollars in thousands	1989 est.
Program by activities	
Construction and acquisition	$294,655
Repairs and alterations	642,225
Purchase contract payments	133,000
Rental of space	1,177,532
Real property operations	882,000
Program direction	49,000
Design and construction	159,090
Special services and improvements	384,899
Total obligations	**3,722,401**
Financing	
Offsetting collections from	
Federal funds	−3,436,739
Nonfederal sources	−4,900
Unobligated balances	
Start of year	−1,051,740
End of year	761,596
Redemption of debt	9,382
Budget authority	0
Relation of obligations to outlays	
Obligations incurred, net	280,762
Obligated balance, start of year	689,007
Obligated balance, end of year	−922,535
Outlays	$47,234

Table 5.2: Restructured FBF Budget Separating Program Costs Into Operating and Capital Components

Dollars in thousands	
Program by activities	**1989 est.**
Operating costs	
Rental of space	$1,177,532
Real property operations	882,000
Program direction	49,000
Special services and improvements	384,899
Repairs and alterations[a]	244,046
Total operating costs	**2,737,477**
Capital investments	
Construction and acquisition	294,655
Purchase contract payments	133,000
Design and construction services	159,090
Repairs and alterations[a]	398,179
Total capital investments	**984,924**
Total obligations	3,722,401
Financing	
Offsetting collections from	
Federal funds	−3,436,739
Nonfederal sources	−4,900
Unobligated balances	
Start of year	−1,051,740
End of year	761,596
Redemption of debt	9,382
Budget authority	0
Relation of obligations to outlays	
Obligations incurred, net	280,762
Obligated balance, start of year	689,007
Obligated balance, end of year	−922,535
Outlays	$47,234

[a]For purposes of this table, repair and alteration projects of less than $100,000 are classified as operating expenses (averaging 38 percent of all repair and alteration projects over the past 3 years) and those of $100,000 or greater are capital investments (62 percent over 3 years)

Second Step: Separating Revenue Into Operating and Capital

Table 5.3 shows what the FBF budget would look like if both the program section and the financing section were separated into operating and capital components. Under this format, the FBF budget would distinguish between operating costs and its revenues and capital investments and its revenues. In addition, this revised budget format would include in FBF's operating costs a charge for depreciation, which represents the consumption of physical assets in a given year.

The budget in table 5.3 has two distinctive features. First, it divides the financing portion of the budget into operating and capital components and calculates outlays for the two components. Second, it shows depreciation as an operating cost and then credits the same amount to the capital section as a source of financing. Depreciation is the systematic allocation of an asset's cost over its useful life. To match costs with related revenues when measuring income or determining the costs of carrying out program activities, depreciation should reflect the asset's use during specific operating periods. Although the depreciation charge does not represent cash disbursements to the public, it does represent an operating cost and the amount made available in the capital budget to finance capital investments; it is, therefore, reported in the budget.

Table 5.3: Restructured FBF Budget Separating Program Costs and Financing Sources Into Operating and Capital Components

Dollars in thousands

	1989 est.	
Program by activities	**Operating**	**Capital**
Rental of space	$1,177,532	$0
Real property operations	882,000	0
Program direction	49,000	0
Special services and improvements	384,899	0
Repairs and alterations	244,046	398,179
Construction and acquisition	0	294,655
Purchase contract payments	81,829	51,171
Design and construction services	0	159,090
Total obligations	**2,819,306**	**903,095**
Depreciation[a]	157,086	0
Total operating costs and investments	**2,976,292**	**903,095**
Financing		
Offsetting collections from		
Federal funds	−2,723,543	−556,110
Federal funds-depreciation	0	−157,086
Nonfederal sources	−4,900	0
Unobligated balances		
Start of year	−363,475	−688,265
End of year	272,612	488,984
Redemption of debt	0	9,382
Budget authority	0	0
Relation of obligations to outlays		
Obligations incurred, net	90,863	189,899
Obligated balance, start of year	68,901	620,106
Obligated balance, end of year	−92,253	−830,282
Outlays	$67,511	−$20,277

[a]For purposes of this table, depreciation is an average of the depreciation amounts in accounting reports for fiscal years 1985 through 1988

GSA Has an Opportunity to Make Necessary Accounting System Changes

To prepare a capital budget, GSA officials said they would need to modify the accounting system so that necessary information can be provided on outlays for each program activity. The system would also have to provide information on obligated and unobligated balances for each program activity at the start and at the end of each year.

Starting in January 1990, GSA will have the opportunity to make the programming changes in its accounting system needed for these capital budgeting modifications. According to GSA officials, a contractor is currently converting the accounting system from a UNIVAC to an IBM system. The conversion does not include any changes or enhancements to existing GSA accounting programs. However, when the conversion is completed in January 1990, GSA programmers will begin making improvements to the accounting system, and the changes necessary for capital budgeting could be made at that time.

Conclusions

GSA has not determined the optimum level of federal ownership for meeting long-term federal office space needs economically. By preparing a long-range plan that balances the cost benefits of ownership with the flexibility provided by leasing, GSA would be able to demonstrate to Congress the cost savings associated with increased ownership. GSA should support the long-range plan by preparing a capital budget that provides Congress with expected outlays for operations and capital investments.

A capital budget prepared by GSA for FBF would highlight decisions regarding the federal government's investment in buildings and would focus attention on government ownership of assets that produce long-term benefits. The combination of a long-range plan and a capital budget would provide Congress and GSA with a framework for identifying the most economical ways of meeting federal agencies' office space needs. Capital budgets prepared by agencies throughout the federal government would also correct the bias against physical capital investments now evident in the federal unified budget. As a result of its unique role as the government's landlord and physical asset manager, GSA is well suited to demonstrate the benefits of capital budgeting to other federal agencies.

Recommendations

We recommend that Congress direct GSA to

- submit a long-range plan in support of its annual budget requests and for meeting long-term federal office space needs economically and
- provide a model on the benefits of capital budgeting to the federal government.

We also recommend that the Administrator, GSA,

- prepare and periodically update a long-range plan using individual economic analyses to show the facilities for which federal ownership would be the most economical way of meeting long-term federal office space needs;
- initiate plans for a capital budget by separating the activities in the FBF budget into the categories of operating expenses and capital investment, in compliance with OMB Circular A-11; and
- then take a leadership role in demonstrating the benefits of capital budgeting for the federal government by preparing a capital budget; this budget would (1) match expenses and revenues for capital and operating programs and (2) include a charge for depreciation to represent the consumption of physical assets for each year.

Agency Comments

In commenting on our report, GSA said our conclusion that the agency lacks a long-range facility plan was only partially accurate. GSA considers long-range trends and goals in formulating its capital investment program and develops specific projects over a 3-year time span that corresponds to its budget cycle. We believe that although GSA may consider long-range trends in formulating its capital investment program and developing specific projects, its efforts do not constitute a plan identifying total long-range facility needs. As we said in this report, we believe a national long-range facility plan should accompany GSA's budget submission, should be periodically updated, should include economic analysis and comparisons of all projects, and should identify all cost-effective construction.

OMB agreed with our conclusion and has requested GSA to submit plans along with its fiscal year 1991 budget request. GSA and OMB have agreed on a list of capital projects for fiscal years 1991 through 1993 and an allocation of FBF revenue through fiscal year 2000. OMB plans to review the allocation annually and believes this process will permit more orderly management of the Federal Buildings Fund. Although this may be a first step toward developing a long-range plan, we believe that a long-range plan is incomplete if it does not identify all long-range facility needs and the cost-savings associated with capital investment.

GSA and OMB agreed to take initial steps toward capital budgeting in the fiscal year 1991 budget submission.

Appendix I

Comments From the General Services Administration

Administrator
General Services Administration
Washington, DC 20405

September 15, 1989

The Honorable
Charles A. Bowsher
Comptroller General
of the United States
General Accounting Office
Washington, DC 20548

Dear Mr. Bowsher:

Thank you for the opportunity to comment on the draft General Accounting Office (GAO) Audit Report, "General Services Administration's (GSA's) Use of Alternative Financing Methods to Acquire Federal Office Buildings."

GSA agrees with the general conclusions of the draft report that significant savings can be realized by increasing the percentage of federally owned space. Construction of many of the proposed projects would result in great savings over a 30-year period when compared to leasing. Unfortunately, as pointed out in the draft report, limited construction funding has left GSA with no alternative but to lease space in some locations that would be less expensive to own.

We also agree that funding and budgeting constraints limit GSA's ability to increase ownership because construction costs must be funded up front while leasing costs accrue on an annual basis. However, the conclusion that such constraints lead to costly alternative financing techniques needs to be understood in the context of all available financing alternatives. In terms of 30-year present value, the total cost of the lease-purchase alternative is, in most cases, less costly than leasing. At the same time, it is slightly more costly than direct construction. GSA and the Office of Management and Budget (OMB) have initiated the first phase of a joint review of these issues, including Federal housing needs, the status of funds available through the Federal Buildings Fund to meet those needs, and financing policies. The results of the first phase of the study have been made available to the Congress and a copy is enclosed.

Your finding that GSA lacks a long-range ownership plan is only partially accurate. GSA does consider long-range trends and goals in its capital investment program. However, specific project programs are formulated over a 3-year span and executed

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over a longer period. For example, at present, GSA is executing fiscal year 1989 projects and the fiscal year 1990 proposed program is now at Congress. At the same time, the fiscal year 1991 program is under development. For the fiscal year 1992 program and beyond, project lists and the scope/cost of projects are incomplete and subject to change. However, repair and alteration construction program for 1992 will be based primarily on the 1991 design program currently under development. The 3-year cycle corresponds to GSA's budget cycle and is, therefore, more timely for developing the detailed scope of projects although the planning horizon for construction and occupancy is already well beyond 1991.

Your recommendation to undertake capital budgeting will be given serious attention. As an initial step, we have recommended to OMB that the Federal Buildings Fund's capital and operating activities be separated for presentation purposes in the fiscal year 1991 Budget.

Detailed comments have been developed and are enclosed.

Sincerely,

Richard G. Austin
Acting Administrator

Enclosures

Comments From the Office of Management and Budget

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 27, 1989

Mr. Richard L. Fogel
Assistant Comptroller General
General Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

Thank you for the opportunity to respond to the GAO draft report GAO/GGD-89 entitled "Federal Office Space: Increased Ownership Would Result in Significant Savings." We were pleased to find that the GAO study and the joint GSA/OMB Task Force study of the Federal Buildings Fund came to similar conclusions on many of the areas reviewed.

The following is a list of the GAO recommendations to GSA and Congress and an OMB response based on the results of the Task Force study.

1. **GAO Recommendation:** Approve and provide for cost effective building construction projects and purchase opportunities.

   Response: OMB agrees with and supports this position in the joint task force study that was submitted to the Congress on September 7, 1989. Where there is a long term-need, ownership is more cost effective than leasing except where there is a depressed rental market.

2. **GAO Recommendation:** GSA to establish and submit long-range facility plans, based on long-term ownership objectives (in turn based on needs assessments and economic analyses), in support of its annual budget requests.

   Response: OMB agrees with GAO that long range planning is necessary. OMB is requesting that GSA develop and submit regional development plans to OMB as part of the FY 1991 budget hearing process. As part of the joint study, GSA and OMB were able to agree on a current projection of long-term needs (and the criteria for determining them) and an allocation of resources in the Federal Buildings Fund out to the year 2000. This allocation will be reviewed and revised as required, annually. This continuous long-term planning process should permit more orderly

management of the Federal Buildings Fund.

3. **GAO Recommendation:** Remove restrictions on rent paid to GSA by tenant agencies.

   Response: The task force recommended that Congress remove any restrictions on the RENT paid by the tenant agencies, and GSA and OMB will be working with the Congress to achieve legislation to this end.

4. **GAO Recommendation:** Refrain from authorizing costly alternative financing methods and substitute less costly alternative financing methods such as borrowing through the Treasury's Federal Financing Bank or provide direct appropriations.

   Response: We agree that Congress should "stop directing GSA to use alternative financing techniques, such as lease purchase agreements" for specific buildings. Ideally, construction and purchases should be financed through direct appropriations. This would be the least-cost financing alternative. Federal Financing Bank (FFB) financing would be second best (12.5 basis points above the Treasury rate).

   The problem is current budget constraints do not permit direct appropriations or FFB financing (now on-budget); and taking FFB back off-budget could open the door to a wide variety of devices that would circumvent Gramm-Rudman-Hollings ground rules.

   On the other hand, GSA and OMB plan to work with Congress to achieve legislation to authorize GSA to enter into least-cost financing mechanisms (no more than 75 basis points above comparable Treasuries and subject to OMB case-by-case determinations that each such financing results in a net benefit to the Government). This authority would be limited to meet projected FFB deficits in FY 91, 92, and 93 of up to $2.5 billion and exempt specified and approved transactions from the Anti-Deficiency Act. Extension of any such legislative authority would depend on future results of the GSA-OMB planning mechanism mentioned above.

   Congress, in authorizing GSA to enter into lease-purchase arrangements with regard to specific buildings, and exempting these purchases from the Anti-Deficiency Act, has authorized transactions which could

well be neither well targeted nor least-cost.

5. **GAO Recommendation:** Direct GSA to provide a model of the benefits of capital budgeting for the Federal Government.

   Response: OMB has requested GSA's Public Buildings Service to present a capital budget to accompany its FY 1991 budget submission.

6. **GAO Recommendation:** GSA should seek Congressional approval and funding for building construction projects and purchase opportunities that represent cost-effective alternatives to leasing.

   Response: As noted above, we will be working with Congress to this end.

The findings in GAO's draft report are similar to those of the joint GSA/OMB task force. A copy of the Joint Task Force report is enclosed.

We would welcome the opportunity to discuss our findings with you or members of your staff. We would also welcome the opportunity to work with GAO generally in the development of a better and more cost effective system to finance those office and other space needs of the Federal Government which are clearly required and of a long-term nature.

Sincerely,

Frank Hodsoll

Frank Hodsoll
Executive Associate Director

Enclosure

Methodology Used to Determine the Long-Term Potential Cost Savings Associated With Construction

To determine the long-term potential cost savings associated with constructing buildings instead of leasing space, we analyzed 43 construction projects proposed by GSA between fiscal years 1991 and 1995. For 24 of the 43 projects, GSA made economic analyses comparing leasing with constructing or purchasing. GSA had not done economic analyses for the other 19 projects, because they were not actively under consideration. For the 19 proposed projects lacking economic studies, we obtained GSA cost data and did analyses comparing leasing with construction using The Automated Prospectus System (TAPS), the computer program GSA uses for its economic studies. TAPS allows the user to generate required economic analysis reports that analyze potential real estate projects in accordance with OMB Circular A-104.

OMB Circular A-104 specifies that the comparison of project alternatives should be in present value terms. One of the most fundamental problems in comparing alternatives is that costs occur at different times. To make valid comparisons between construction and leasing, all values, whether benefits or costs, should be in terms of present values. In the case of real estate, the analysis is typically conducted over a 30-year period.

In doing our economic analyses, we obtained GSA cost data and did the analysis using the same computer program GSA uses for its economic studies. We obtained data from five sources. First, we used values assigned by GSA headquarters. Second, we obtained project-specific data from GSA's headquarters and regional offices. Third, we used values from the TAPS program default settings.[1] Fourth, we used values calculated internally by the program on the basis of other input values. Finally, we assumed several values in cases where the information was unavailable. Table III.1 shows the types and sources of data used.

Table III.1: Type and Source of Data Used in Economic Analyses Done by GAO

Type of data	Source of data
GSA-prescribed values	GSA headquarters
Project-specific data	GSA regional offices and headquarters
TAPS default settings	TAPS program
TAPS internal calculations	TAPS program
GAO assumptions	GAO

[1]Default settings are pre-established values in the program that are used in the calculations if actual values are not entered for the data used in the analyses.

GSA-Prescribed Values

In doing the TAPS A-104 analysis, the regional offices, as directed by GSA headquarters, use the values listed in GSA's Capital Improvement and Leasing Program Planning Call. Table III.2 shows the values listed in the Planning Call. In its comparisons, GSA uses many of the same values for both the leasing and the construction alternatives. However, in some cases, one of the alternatives requires a different value not used in the other alternative.

Table III.2: GSA Headquarters-Directed Values

Variable name	Value
Type	Lease or construction
Number of years leased	30
Number of years occupied	30 years less interim housing
Major repairs and alterations (leasing)	$0
Major repairs and alterations (construction)	$1.73
GSA management cost (leasing)	$ .50
GSA management cost (construction)	$ .70
Tenant alterations	$1.19
Inflation rate	4%
Projected value (construction)	Inflation rate
Real estate inflation rate (construction)	4%
Real estate obsolescence factor (construction)	20%
Ownership (leasing)	Corporate
Tax bracket	34%
Remaining real property basis (leasing)	70% of estimated construction costs
Depreciation life for remaining real property basis (leasing)	31.5
Economic life for remaining real property basis (leasing)	40
Furniture, fixtures and equipment depreciation life (leasing)	7
Furniture, fixture and equipment, economic life (leasing)	12
30-year Treasury rate	9%

Project-Specific Data

We obtained data on particular projects from two sources. First, we obtained project-specific data, such as square footage, from the GSA list of proposed construction projects for fiscal years 1991 through 1995 and from GSA regional offices and GSA headquarters. Second, we obtained data for classes of projects, such as number of years needed to design and construct projects costing $250 million, from the regional offices and headquarters.

For 15 of the variables, we used project-specific data provided to us by GSA's regional offices and headquarters. These variables follow.

1. Project name
2. Occupiable square feet
3. Year analysis begins
4. Year lease begins
5. Net, net rent per occupiable square feet
6. Year of design award
7. Year project opens
8. Estimated construction cost
9. Estimated design & review cost
10. Estimated management & inspection cost
11. Number of years for design & construction
12. Estimated cost or value of land
13. Land status
14. Taxes & insurance
15. Services & utilities

Rather than use the default setting of 4 years, we used project-specific data to determine the number of years needed to design and construct projects. As a result of discussions with an agency official, we calculated this variable using GSA tables that show the relationship between the estimated cost of construction and the duration of design and construction. GSA's tables show a positive relationship between the size of the project and the length of the design and construction period.

TAPS A-104 Default Values

For those buildings on which specific data were not available and for which values had not been defined by the GSA headquarters, we used the computer default settings contained in the TAPS program, as shown in table III.3.

Table III.3: Default Settings Used

Variable name	Value
Average lease term in years	5
Construction inflation rate	4%
Tax credits	0
Regular private sector rate	11%

Program Calculations

In several instances, the TAPS program makes a calculation on one input value to determine another input value. For example, the program calculates the gross square footage on the basis of the value that the user inputs for the occupiable square footage of a building. We used values

calculated by the program for the variables "gross square footage" and "furniture, fixtures, and equipment basis."

Assumptions on Variables

We made several assumptions for variables so project-specific that GSA officials were unable to provide values. In other cases, GSA suggested values for the purposes of our analysis. Values for which we made assumptions are shown in table III.4.

Table III.4: Assumptions Made

Variable name	Value
Year today's dollars	1989
Year present values	1989
Interim housing costs per year	Estimated as 1 year of lease costs
Initial space alterations	0
Moving and relocation costs	0
Occupiable square footage outleased	0
Outleasing lease term	0
Full-service outleases	0
Irregular lease rates	0
Irregular outleasing income	0
Irregular interim housing	0

We based the TAPS analysis on 1989 dollar values. Accordingly, we converted financial data entered into the TAPS program to 1989 dollars and we entered 1989 as the year for today's dollars and as the year for present values.

We estimated annual interim housing costs for construction by assuming that 1 year of leasing approximated 1 year of interim housing. For the leasing alternative, we did not differentiate between lease costs and interim housing costs for the lease analysis.

On the basis of discussions with GSA officials, we assumed a zero value for the initial space alterations and moving and relocation costs.

We assumed no outleasing of space to a commercial tenant in the construction alternative because the amount of outleasing is project-specific and difficult to estimate for projects not yet well defined. Since outleasing generates revenue for the agency, our decision to assume no outleasing may result in the understatement of the cost savings for

construction over leasing. We also assumed that all lease rates and interim housing costs were constant over time.

Calculating Actual Future Outlays

In addition to calculating the 30-year present-value costs for construction and leasing, we estimated the actual inflated future outlays accruing over a 30-year period.

For 23 analyses, GAO generated or obtained from GSA detailed economic analyses that showed, on a year-by-year account, the costs of construction and leasing over a 30-year period in inflated dollars. For these economic analyses, we totaled the actual outlays for each alternative over a 30-year period and calculated the cost differences between construction and leasing for each project.

For those cases without a detailed A-104 analysis, we estimated the inflated cost savings by applying a ratio of present value to inflated savings developed from those cases for which an A-104 analysis was available.

Lease-Purchase Projects Authorized by Congress as of May 31, 1989

Location	Description	Authorizing legislation/date	Anti-deficiency waiver/date[a]
Oakland, CA	Cost not to exceed $141.7 million	P.L. 100-202/12-22-87	P.L. 100-440/9-22-88
San Francisco, CA	430,000 occupiable square feet	P.L. 100-202	P.L. 100-440
Chicago, IL	Not to exceed 600,000 square feet	P.L. 99-591/10-30-86 and P.L. 100-202	P.L. 100-202
International Cultural and Trade Center, D.C.	Not to exceed 3,100,000 gross square feet	P.L. 100-113/8-21-87	P.L. 100-113[b]
New York, NY	Two buildings not to exceed 1,600,000 gross square feet	P.L. 100-202	P.L. 100-202[c]
Environmental Protection Agency, D.C.	1.4 million occupiable square feet	P.L. 100-202	P.L. 100-440
Department of Transportation, D.C.	1.8 million occupiable square feet	P.L. 100-202	P.L. 100-440
Memphis, TN (Internal Revenue Service)	600,000 gross square feet, not to exceed $36 million	P.L. 100-440	P.L. 100-440
Chamblee, GA (Centers for Disease Control)	40,000 net square feet	P.L. 100-440	P.L. 100-440

[a]The Anti-Deficiency Act prohibits federal officials from making or authorizing expenditures or obligations in excess of amounts available in appropriations, lease payments are recorded on an annual, rather than a total, basis, like the total payments of a constructed or purchased building

[b]P.L. 100-113 states that, to meet lease payments, obligations of funds from the FBF shall be made only on an annual basis.

[c]P.L. 100-202 states that GSA may make annual lease or installment payments from funds available for the rental of space in FBF.

Interest Cost Comparison of Alternative Financing Techniques With Treasury Borrowing

Since 1972, GSA has used two types of alternative financing techniques to acquire office buildings. The first was purchase contract authority granted in the Public Buildings Amendments of 1972. Under this authority, GSA obtained $697 million through the sale of mortgage-backed securities (certificates of participation) to investors. The second technique, lease-purchase, involves entering into long-term lease agreements with developers in which the federal government owns the building at the end of the lease.

The following tables show the estimated costs of borrowing using mortgage-backed securities and lease-purchase agreements as compared with borrowing at the long-term Treasury rate.

Table V.1: Mortgage-Backed Securities

Dollars in millions

	Purchase contract	Treasury rate	Difference
Amount borrowed	$697.1	$697.1	•
Analysis period	30 years	30 years	•
Interest rate[a]	7.125%[b] to 8.200%	5.510%[c] to 6.920%	1.89%[d] to 1.28%
Total of payments over 30 years[e]	$1,748.2	$1,533.9	$214.3
Present value in 1988 dollars[f]	$1,975.2	$1,687.5	$287.7

[a]Interest rates are shown as a range because of various issuance dates for securities (11/72 through 2/76).

[b]Securities issued in November 1972 pay interest rates from 7.125 to 7.400 percent.

[c]Interest rates shown for Treasury borrowing are for 20-year bonds. The Federal Reserve Bulletin reported 20-year Treasury rates as the long-term government interest rates during this time period.

[d]The largest difference was between the 7.400 percent rate on some of the securities issued in November 1972 and the Treasury rate of 5.510 percent at that time.

[e]Amounts represent the total estimated payments over the term of the borrowing. The amount borrowed is not fully amortized because the securities indenture agreements required mandatory redemptions of e percentage of the outstanding debt in years 3 through 30.

[f]Present value calculations were made by using the Treasury rate at the time of issuance as the discount rate. Present values were then adjusted to 1988 dollars.

Table V.2: Chicago Federal Building

Dollars in millions

	Lease-purchase	Treasury rate	Difference
Amount borrowed	$153 1	$153 1	•
Analysis period	30 years	30 years	•
Interest rate[a]	9 800%	8 980%	82%
Total of payments over 30 years[b]	$475 6	$442 7	$32 9
Present value[c]	$164 5	$153 1	$11 4

[a]The lease-purchase agreement was for a long-term financing rate of 82 percent over the 30-year Treasury bond rate at the time GSA accepts the building Interest rates shown are based on the Treasury bond rate as of 12/13/88 (8 980 percent)

[b]Amounts represent the total estimated payments over the term of the borrowing For lease-purchase agreements, the amount borrowed is fully amortized over a 30-year period

[c]Present value calculations were made using the Treasury rate (8.980 percent) at the time of the agreement as the discount rate

Table V.3: Oakland Federal Building

Dollars in millions

	Lease-purchase	Treasury rate	Difference
Amount borrowed	$165.3	$165 3	•
Analysis period	30 years	30 years	•
Interest rate[a]	9 970%	9 150%	82%
Total of payments over 30 years[b]	$521 0	$485 3	$35 7
Present value in 1988 dollars[c]	$169.7	$158 1	$11 6

[a]The lease-purchase agreement was for a long-term financing rate of 82 percent over the 30-year Treasury bond rate at the time GSA accepts the building Interest rates shown are based on the Treasury bond rate as of 3/17/89 (9 150 percent)

[b]Amounts represent the total estimated payments over the term of the borrowing For lease-purchase agreements, the amount borrowed is fully amortized over a 30-year period

[c]Present value calculations were made using the Treasury rate at the time of the agreement as the discount rate (9 150 percent) Present values were then adjusted to 1988 dollars

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Glossary

Alternative Financing Techniques	Financing methods that use funds borrowed at interest rates above the 30-year Treasury bond rate. GSA has used two alternative financing techniques since 1972—mortgage-backed securities sold to investors under purchase-contract authority and lease-purchase agreements with developers.
Capital Budget	In GAO's capital budget proposal, the capital budget of the unified budget segregates capital revenues and capital investments from the operating budget's revenues and expenses. Capital revenues and capital investments are excluded from calculations of the operating budget's surplus or deficit, but the operating budget is charged for depreciation.
Capital Investments	In GAO's capital budgeting proposal, capital investments include physical assets and financial assets. See physical assets and financial assets.
Capital Revenues	In GAO's capital budgeting proposal, this term includes amounts that are earmarked by law to finance physical and financial assets.
Depreciation	The systematic and rational allocation of the costs (historical, replacement, or current value) of equipment and buildings (having a life of more than 2 years) over their useful lives. To match costs with related revenues when measuring income or determining the costs of carrying out program activities, depreciation should reflect the use of the asset during specific operating periods.
Expenditures	In the Anti-Deficiency Act (31 U.S.C. 1341) and the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344, 2 U.S.C. 681 et seq.), the term expenditures has the same definition as outlays. See outlays.
Expenses	In GAO's capital budgeting proposal, expenses represent the cost of the federal government's operations. They include outlays for civil and defense functions, interest on debt, and depreciation.

Financial Assets	In GAO's capital budgeting proposal, financial assets include any legal instrument, such as bonds, notes, and other securities, held by the federal government.
Lease-Purchase Agreement	An agreement between a lessor and a lessee in which the lessee agrees to lease a building for a given length of time and then takes title to the building at the end of the lease period.
Mortgage-Backed Securities	Repayment of the securities (certificates of participation in which the certificate holder shares in the rental receipts) issued under purchase-contract authority are secured by the projects constructed; the projects are constructed with the proceeds from the sale of the certificates. Title to the projects is vested in the trustee to benefit the investors until the certificates are paid. In the event of default, the trustee may take possession of the building projects and collect rent.
Operating Budget	In GAO's capital budgeting proposal, the operating budget consists of all revenues and operating expenses for programs and activities that are not classified as capital investments.
Outlays	Payments made through the issuance of checks, the disbursement of cash, or the transfer of electronic funds; these payments liquidate obligations.
Physical Assets	In GAO's capital budgeting proposal, physical assets are assets with form and substance (tangible), whose ownership resides or will reside, in the public domain; which typically provide services or benefits for more than 2 years; and which cost $100,000 or more.
Present-Value Cost Analysis	An analysis of the cost of alternatives available to GSA in providing space needed by the federal government. The analysis considers all costs that would accrue over a 30-year period if buildings providing the required amount of space were purchased, leased, or constructed. The present values of the accrued costs are determined by calculating the amount of money that would have to be invested today to grow to the total of the accrued costs, given a particular interest rate. GSA is required to make the economic analysis by OMB's Circular A-104.

Purchase-Contract Authority	Three-year authority granted to GSA in the Public Buildings Amendments of 1972 (P.L. 92-313) to enter into purchase contracts for the construction of a backlog of approved but unfunded projects. GSA used purchase-contract authority to obtain 68 buildings containing about 15 million square feet of occupiable space.
Revenues	In GAO's capital budgeting proposal, revenues are collections received (by cash, check, or electronic funds transfer) for public use. They include general taxes, earmarked taxes, and other revenues.
Scorekeeping	Procedures for tracking and reporting on the status of budgetary actions, including tabulations and reports on actions affecting budget authority, receipts, outlays, the surplus or deficit, and the public debt limit.
Unified Budget	The present form of the federal government's budget in which receipts and outlays from both federal funds and trust funds are consolidated.

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TESTIMONY OF

J. McDONALD WILLIAMS, CEO
TRAMMELL CROW COMPANY

BEFORE

THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

OCTOBER 28, 1993

H. R. 2680

AND

RECOMMENDATIONS FOR OVERALL

GENERAL SERVICES ADMINISTRATION REAL ESTATE POLICY

H. R. 2680
AND
GENERAL SERVICES ADMINISTRATION REAL ESTATE POLICY

SUMMARY OF STATEMENT OF
J. McDONALD WILLIAMS, CEO
TRAMMELL CROW COMPANY

H. R. 2680: The proposed legislation would partially abate the blockage created by the Budget Enforcement Act of 1990 score keeping rules with respect to capital lease or lease-purchase arrangement between GSA and prospective real estate vendors. Current market conditions allow tremendous flexibility to significant users and GSA should not be prevented from taking advantage of cost effective alternatives in representing its customers. Care should be taken in creating this flexibility so that neither GSA nor their customers interpret this as official approval for new construction to house the public agencies; irrespective of the desire to geographically consolidate distinct agencies or provide improved floor plan configurations to agencies, etc.

GSA REAL ESTATE POLICY: In order to maximize returns on government assets and effectively address costs in satisfying the occupancy needs of its customers, we recommend that GSA refocus on being the strategic provider of real estate and facilities services. Additionally:

1) Separating asset management activities from property management, leasing and related services. Establish independent service entity to hire or compete with private sector service providers.

2) Develop for each Agency a comprehensive "Housing Occupancy Plan."

3) Retention of private sector property management, leasing and tenant representative services through competitive bidding, with discretion to GSA to obtain services by asset, city or other geographical basis.

4) GSA seek legislative authority for greater autonomy in representing customer needs without congressional intervention and revamp internal guidelines to narrow the implementation gap between investment decisions and final execution.

5) Providing financial decisions for each customer based on current, consistently applied investment models.

6) Do no harm; consideration of vacancy factors and available FDIC/RTC assets applicable to the specific region as an integral part of the financing analysis.

7) Develop an asset redeployment program to dispose of underutilized or surplus real estate.

Mr. Chairman and Members of the Subcommittee, my name is Don Williams. I am President and Chief Executive Officer of Trammell Crow Company - one of the largest privately held, full service real estate companies with officers nationwide.

My purpose today is to address the pending bill as well as share certain perspectives of the private real estate sector - from the view of the service provider and as the voice of certain of our real estate customers, with respect to the future policies of the General Services Administration.

First addressing H. R. 2680, I believe the real estate industry is painfully aware of the limitations by the current score keeping rules imposed on GSA's ability to pursue capital leases or lease purchase arrangements for the benefit of their customers. More than one developer has pursued a possible build-to-suit or sale arrangement with GSA involving a capital lease, particularly in this metropolitan area, and ultimately run afoul of the budgetary consequences of the existing scoring system. Considering the tremendous flexibility afforded to significant space users by the prevailing local and national real estate markets, Congress would be ill-advised to allow the existing system to continue to hamper or in all reality, effectively block, the capital lease as a potentially cost-effective financing alternative for government agencies in satisfying their space needs.

In considering the objectives of this bill, however, we feel strongly that this not be viewed as a mandate for new construction in our overbuilt urban areas. Few developers or service providers were not encouraged by GSA Administrator Roger Johnson's proposal to "suspend and review" new construction activities. The capital lease structure should be considered a viable alternative by GSA in analyzing the most effective financing arrangement for currently available rental space in the target market and not as a means to add new square footage to cities already at considerable risk due to the overbuilt conditions. Also, in allowing GSA to effectively 'regain' this financing tool, traditional leasing should not be allowed to fall by the wayside. There is no lack of opportunity for low cost, efficient, long term occupancy leases in Class A office buildings throughout the country and in many instances the customer will still be better served by a traditional lease arrangement or by an outright purchase of an existing project.

Turning to the second focus of our testimony, this Subcommittee has requested recommendations for overall GSA real estate policies which would produce more efficiency. The private sector has never been hesitant to vocalize its frustrations over GSA policies and procedures, irrespective of whether such practices were beyond the power of GSA to modify if it so chose. The scoring rules are one example of the legislative barriers which hamper GSA's ability to adapt to changing market conditions. While we believe, this Subcommittees's focus on these barriers is necessary, you are only pruning away part of the bureaucratic foliage -- nobody is watching the store to see the developing trends in the private sector on service efficiency, investment methodology and financial models.

We recommend generally that GSA focus on being the strategic provider of real estate and facilities services and not the sole provider, with greater emphasis on development of comprehensive housing plans for each Agency and portfolio operating costs. More specifically:

1) Follow the solid lead established by private sector real estate companies and separate asset management from property management, leasing and related services. GSA would focus on asset management for yield and either cease property level service activities or a property level service enterprise would be established to hire or compete with the private sector.

2) Set in place a system by which the cost of occupancy, by Agency, can be measured and accounted for including the cost of managing the real estate function by GSA.

3) Develop for each Agency a comprehensive "Housing Occupancy Plan" (HOP) which would utilize all private sector techniques to streamline occupancy costs. This would include cost savings and avoidance plans such as downsizing, co-location, sub-leasing, adopting new space standards and demand forecast analysis.

4) Retain necessary property management, leasing, tenant representation and related services through an efficient, competitive bidding process, with discretion to GSA to obtain these services by asset, by city or on such other product or geographical basis as they deem prudent.

5) Continue to seek legislative authority for greater autonomy in representing customer needs without congressional intervention. Specifically, the prospectus process should be eliminated or replaced by Agency HOPs or by some other effective benefit/cost analysis in determining the advisability of the investment by the relevant agency and then delegate to the GSA asset managers the implementation of the financing analysis and execution for the investment without further intervention. Asset managers or a GSA service organization should have direct access to real estate expertise or experienced networks in the private sector that may be aware of cost efficient, real estate alternatives for GSA customers.

6) Determine financing decisions for each customer based on current, consistently applied investment models which consider acquisition, capital leases and non capital leases as equal alternatives given the specific occupancy requirements and geographic market conditions of the customers and which also values flexibility. No predisposition as to any investment alternatives; rather a financing decision which produces the lowest cost of occupancy to the customer.

7) Do no harm; include consideration of vacancy factors and available FDIC/RTC assets applicable to the specific region as an integral part of the financing analysis.

8) Develop an asset redeployment program which would raise capital by selling underutilized or surplus real estate and could then be used in facilitating the respective HOP requirements.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or the Subcommittee may have at this time.

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